

# statewatch

monitoring the state and civil liberties in Europe

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## EU: Remote searches of computer hard drives

### - "cyber patrols"

### - state agencies can spy on, for example, lawyers, journalists and activists across borders

On 5 June the German Federal Ministry for the Interior announced proposals to amend the Federal Criminal Police Office Act to allow authorisation to conduct online computer searches and video surveillance in private homes in "cases of terrorist threats". More precisely this will allow it to carry out:

*the surveillance of private homes and telecommunications as well as remote searches of computer hard drives" and of: "the acoustic and visual surveillance of private homes.*

While the German proposal is limited to "terrorist threats" this was the first public recognition that state agencies – in Germany and other EU states – have the technological ability to carry out "remote searches" of computer hard drives.

And it can be observed that **if state agencies can remotely access computer hard drives they can also add to or change their content or install a "trojan" (virus).**

On the 11 July the EU Council Presidency sent a Note on its: "Comprehensive plan to combat cyber crime" to COREPER (the committee of Brussels-based high-level representatives of each Member State) and the Council (EU doc no: 11784/08). Under the sub-heading "The emergence of new issues" it notes that legal powers have been adopted in some Member States for "blocking" sites containing child pornography and:

*the use of investigations under pseudonyms (cyber patrols) and their possible extension to areas other than child pornography.*

Powers to monitor and "block" child pornography sites would receive wide support but the extension of "cyber patrols" and "blocking" to other issues could be highly contentious – for example, to a planned cross-border protest at a G8 Summit or material discussing "terrorism" thought to be aiding "radicalisation". Another "new issue" is:

*the area of remote computer searches, which are a delicate issue because of their cross-border nature. (emphasis added)*

Having referred to "projects already in existence" which require "common approaches" it is clear that state agencies in some Member States are already conducting cross-border remote computer searches – for example, state agencies in Italy could be searching computer hard drives in France, those in the UK

searching those in Spain and so on.

This Council Presidency Note in July was, of course, just that – a basis for discussion. However, it was very swiftly – given the long Brussels summer "break" – transformed into a proposal for formal Council "Conclusions" which slipped unnoticed, and unreported, through the October Justice and Home Affairs Council as an "A" Point (adopted on the "nod" without discussion, EU doc no: 13567/08). However, the adopted version only refers to:

*measures to facilitate remote computer searches, allowing investigators rapid access to data*

There is no mention of the "delicate issue" of "cross-border" searches. Neither is there any mention of data protection, privacy, reporting procedures or legal powers.

Council "Conclusions" are non-binding ("soft law") but they are enabling, that is, it is open to any or all EU Members States and their agencies to introduce measures to "facilitate" remote computer searches at will.

The concept of "cyber-crime" currently covers scams such as "phishing", getting confidential information from victims; terrorism; child pornography; and attacks on information systems – all of which would get broad support.

However, there are now clearly stated intentions to extend these categories to "other areas" - one such extension is to cover "material [that] glorifies violence and terrorism".

This is a classic instance where having developed a technology for specific purposes - terrorism and child pornography – state agencies seeks to extend the practice across a whole range of issues. Quite extraordinarily the Council Conclusions authorise measures to facilitate remote computer access, within and across borders, to access content and with the possibility that this content could be altered or added to without the knowledge of the individual or group. Lawyers working on contentious cases could be spied on as could journalists or protest groups planning a demonstration. They could also be "set-up" with material being "planted" in their computers.

To adopt such a measure without any reference to data protection, privacy or legal powers puts us in a state of lawlessness. (Tony Bunyan)

**On the targeting of activists in the "War on Terror"** see page 4

**Cross-border DNA data exchanges** see page 14

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# Italy: Who should be scared of whom?

by Yasha Maccanico

## A proliferation of racist attacks over the summer, as complaints against police and security personnel increase and the authorities appear to minimise the problem

A series of recent incidents involving violence against foreigners (homosexuals and left-wingers have also suffered attacks) have exemplified a growing intolerance that coincides with the coming into power of a right-wing coalition that has been overtly targeting migrants. After the approval of the so-called "security package", which treated migrants as the source of the feeling of insecurity felt by many citizens, the issue of the migrants' own security has come to the fore after seven murders in a single week in mid-September, and almost daily reports of attacks against them. Moreover, the problem has expanded from merely concerning the limited milieu of neo-fascists, to shopkeepers, organised crime, police officers and children. The backdrop for these events has been an ongoing effort by the government to deny that its measures are racist in any way or that racism is gaining ground in Italian society (with the exception of Gianfranco Fini, the deputy prime minister and leader of *Alleanza Nazionale*, AN) - so much so that the PM Silvio Berlusconi himself appeared on Italy's leading political chat show, *Porta a Porta*, assuring the public that a bar owner and his son, who killed a teenager from Burkina Faso who had Italian citizenship by striking him repeatedly with a metal bar while shouting "dirty negro", allegedly as a result of him stealing some biscuits, had not acted out of racism, a theory with which investigators agreed by ruling out any racist intent in connection with the crime.

There were also statements by authorities including the mayor of Rome, Gianni Alemanno, who, in an interview in early September, explained his view that fascism was not the "ultimate evil" that his party leader Fini had described it to be, but a more "complex phenomenon" which "many people adhered to in good faith", with positive as well as negative aspects, limited to the racial laws approved in 1938/9 and to joining Hitler in the Second World War.

Meanwhile, developments in the legislative field saw post-electoral plans for the wholesale criminalisation of undocumented migrants *per se* limited to the aggravating circumstance involving a one-third increase of prison sentences passed against people found guilty who are also "irregular" migrants (see *Statewatch vol. 18 no. 2*). Restrictive law decrees on asylum and family reunification have also been approved, while plans for migrants to attend separate school classes that are only for foreigners received initial approval in parliament before drawing criticism that may undermine their passage through the senate, the upper house. Other mooted proposals included that by the *Lega Nord* (LN, Northern League) to have residence permits with a points system similar to that used for driving licenses, which would strengthen the notion of migrants' presence in Italy only being allowed in a situation of permanent probation, whereby loss of the points in question would result in expulsion from the country. It is also noteworthy that in spite of the succession of attacks against foreigners, the series of "emergencies" that the government has used to introduce repressive measures and the increased deployment of personnel to guarantee security appears not to include the issue of racist attacks.

### Intolerance spreading: an array of incidents

In the early morning on 14 September 2008, Abdul Guibre, a 19-year-old from Burkina Faso with Italian citizenship who had

lived in Italy since the age of three, was killed in Milan by two men, the owner of a bar van from which he is alleged to have stolen some biscuits and his son, who beat him, also on his head, with a metal bar while shouting "dirty negro, we'll kill you". He died hours later in hospital. The two accused of the murder, Fausto and Daniele Cristofoli, will not face the aggravating circumstance of racism in connection with the attack, as the prosecuting magistrate accused them of voluntary homicide for futile motives, as was also argued by the head of the Milan flying squad: "With regards to the investigations carried out so far, the origins of this incident have not ascertained any xenophobic aspect". The friends of Abdul (aka Abba) told the police that "There was no theft, it's a lie. A dirty lie that those two will have invented, maybe to find a justification", and his sister noted the shift that the murder has caused: "Today I have understood, we have understood what it means to be black. This is why they killed my brother. Today, for the first time, I feel black".

Abba's killing was only one of a number of incidents that marred the summer of 2008. Incidents that hit the media headlines included beatings by groups of underage boys in the suburban Roman neighbourhood of *Tor Bella Monaca*, such as that of a 36-year-old Chinese man who was waiting for a bus and ended up in hospital with injuries to his head and face, including a broken nose, after being attacked by five boys on 2 October 2008. Alemanno, the city's mayor, offered Rome's apology to the Chinese man, called for exemplary punishment, and criticised the youths for tainting the city's name.

Father Carlo D'Antoni of the Bosco Minniti parish church in Siracusa (Sicily), issued a statement expressing his concern following an incident on the night between 26 and 27 July, in which Africans who were received in the parish and slept in the open in its courtyard were targeted by missiles thrown from outside, which included "around ten 66cl. beer bottles, 19 stones the size of a fist and around ten wooden boxes of the kind used in the sale of fruit", fortunately without causing any serious injuries. The priest related the incident to "a growing climate of 'annoyance' and a spreading racism", which can be felt in the city and which, although it affects people who are "morally and intellectually poorer", is spreading and "fostered by the attitudes and words that would not be expected from those who... have institutional responsibilities at various levels: from the highest to the local ones".

At 4.30 in the morning on 30 August, four left-wing activists were attacked by a group of around ten fascists armed with knives near to the Schuster park in central Rome, as they picked up their car after an anniversary event to commemorate the death of Renato Biagetti. One of the people attacked suffered three knife wounds to his thigh. Biagetti was stabbed by a group of fascists following a reggae concert on the coast near Fiumicino two years earlier.

On 9 September, two 28-year-old gay men were insulted, spat at and had bottles and stones thrown at them by a group of ten children, because they were walking hand-in-hand, as was stressed by Fabrizio Marrazzo, the president of Arcigay Roma, adding that it is "yet another example of intolerance towards gay people and homosexual love".

On 9 October, a 16-year-old Moroccan girl was beaten by a group of children of a similar age (including a girl who was a former classmate) who followed her after she left school, and had her nose broken in full daylight in the area of the market in

Varese, without anyone intervening. She had apparently had a scuffle (insults, shoving and scratches) with a girl on a bus on the previous day after refusing to give up her seat to a boy who had told her to leave him the seat and insulted her. The girl with whom she struggled was a friend of this boy. On 22 October, an Albanian man was beaten with a truncheon in Genoa by a man who he had already reported previously to the carabinieri for issuing “racial threats” against him, and shouted “dirty Albanian” at him during the attack. The 19-year-old went into a coma.

On 18 September, organised crime also joined the fray. Hitmen from the *Camorra* shot and killed six Africans (Ghanaians, one Liberian, and a Togolese) in Castelvoturno (Caserta), in an incident that was quickly dismissed as a war between groups for control of the drugs trade in the area, between the established home-grown criminal organisation from Campania and the African upstarts. It was only after a revolt by Africans from the area that involved a degree of vandalism, that their voices were heard, and they claimed that extortion by the *Camorra*, which was having greater difficulty than in the past extorting money for protection from Italians, had turned to blackmailing migrant workers with threats of violence if they didn't pay up, which they executed with tragic consequences. The government's response was to send in the army to counter the influence of the Casalesi (*Camorra* clan that has been in the media spotlight since its activities and influence were described in Roberto Saviano's book, “Gomorra”, which has been shot as a film and has been nominated for an Oscar).

### Cases involving police officers

Incidents involving police officers and members of the state security apparatus are also coming to light. One of the most recent and prominent cases occurred on 29 September 2008 in Parma, where *vigili urbani* (local police officers) beat up and arrested a Ghanaian student, Emmanuel Bonsu, on suspicion of drug dealing in an incident witnessed by a number of people. This case was particularly striking in that it affected a man who was legally resident, had not committed any offence and was well documented, particularly as the injuries he suffered resulted in him having to be undergo surgery on his disfigured eye. Bonsu claims he was chased, floored, held on the ground, had a gun pointed at his face and was later beaten during a five-hour stay in police custody. He was violently forced to sign some papers before his release, was told that another person held in the station had identified him and confessed, and left the station with a notification that he would face charges for “resistance” and an envelope containing his belongings on which “Emmanuel negro” was written, rather than his surname. Three witnesses of the arrest called in to a *RAI* television programme to tell their versions of what they saw. Francesca Zara, from the city's female basketball team, said she saw an arrest, “and then I saw a black youth, Emmanuel, on the ground. He shouted, scared. Around him there were three persons... beating him. One of them also held a gun”. Asked whether he had also been beaten, she answered, “They did kick him a few times”. It is also worth noting that this incident came to light thanks to Bonsu's position as a “legal immigrant” and his courage in reporting it. It also drew the spotlight to the zero tolerance policies that are being implemented in the city of Parma, where a shocking picture of a half-naked and handcuffed black prostitute on the floor of a cell after being held by the *vigili urbani* had been published a couple of weeks earlier.

Police officers used considerable violence against a demonstration by African migrants (many of them refugees and asylum seekers) in Naples on 28 July 2008. They were occupying the Duomo, the city's cathedral and demanded adequate housing, after their eviction a few days earlier from a building in poor conditions in Pianura, where over 100 of them,

as well as some Italian families, had been living. The possibility of them moving to the temporary alternative housing that had been arranged, in a former school in the Spanish Quarters, was prevented by a demonstration by dozens of people headed by a local representative of the far right *Forza Nuova* party. After a night spent in the open, they demonstrated in the Duomo, where a large police presence was deployed and activists also showed up to support them. Shortly after midday, the police intervened, arresting some of the migrants, one of whom was violently beaten as he was forced into a police van.

Towards the end of August in Rimini, one of Italy's most popular beach resorts on the Adriatic coast, a small market in which African hawkers sold products on the beach, was the site of a protest by onlookers after two men had beaten and dragged an African in the sand, handcuffed him and sat on top of him. When people gathered around the men involved, they reassured everyone by saying “don't worry, we're policemen”. The next day's local newspaper's headline read “African beast attacks officers on the beach”, calling for exemplary punishment against him.

On 5 September 2008 in Bussolengo (Verona), three Roma families that had parked in a lot and were preparing lunch were approached by a *vigili urbani* patrol that told them to leave. They answered that they would have their lunch and then leave. A *carabinieri* patrol arrived a few minutes later, and ordered them to leave immediately, starting to strike the people concerned, including minors. They were all taken to the *carabinieri* station for over six hours, where further abuses took place, involving beatings, one child being beaten so badly that he lost three teeth, and an 11-year-old having his head submerged in a bucket full of water and even being humiliated by being invited to perform a sexual act. Everyone was subsequently released except for Angelo and Sonia Campos, and Denis Rossetto, all of whom were accused of “obstructing” a public officer, as reported by the Brescia-based association *Nevo Gipen*, which is helping the Roma people involved in the case to file a lawsuit. Sonia Campos was found guilty and received a six-month suspended sentence on 23 September.

### Authorities in denial

The government appears to be unable to adapt to its role as the guarantor of security for everyone. In response to a report by the Council of Europe's Commissioner for Human Rights, Thomas Hammarberg, which was published in July and was based his visit to Italy on 19 and 20 June 2008, and claimed that “Measures now being taken in Italy lack human rights and humanitarian principles and may spur further xenophobia”, the interior minister Roberto Maroni criticised the report as ill-informed and offensive towards Italy's police forces due to its claims that raids involving ill-treatment of people were carried out against Roma. Thus further scrutiny of the report's content, which included concerns such as the expulsion of people to countries that practise torture, measures included in the “security package” and the modification of anti-racism legislation in February 2006 that “seriously reduced the sentences” for racist propaganda, instigating or committing discriminatory or racist acts, was curtailed.

The use of the word “raids” was misinterpreted, as the English term tends to be used in Italy to describe attacks, whereas it can equally apply to operations in which police suddenly descend in numbers on a site or establishment to carry out arrests, searches or evictions. Hammarberg spoke of complaints of ill-treatment of Roma during raids, inadequate protection when camps suffered attacks and being responsible for “violent raids” itself (points 32 and 50 of the report), yet this, allegations of discrimination and the fact that the report speaks out against the proposal to criminalise illegal immigrants wholesale, which was repeatedly mooted but has now been

shelved, resulted in an angry response by Maroni and a diplomatic row. "These are all falsehoods, the country is in a state of emergency dictated by exceptional pressure", he remarked, adding that the allegations against the police were insulting, "a complete falsehood, the police have never committed violent acts". Hammarberg's spokesman clarified that there must have been a misunderstanding about the word "raid": "The Commissioner does not state that the police carried out raids with molotov cocktails or against the Roma, the report refers to a series of episodes of forced evictions about which the Commissioner is rather concerned".

The government's state of denial, on both matters of discrimination and police conduct, was later highlighted in a letter to the Rome *prefetto* (police chief, granted special powers in relation to the "roma emergency") Carlo Mosca, written by Italian Red Cross volunteers who were involved in the controversial identification of Roma living in camps in Rome between June and October 2008. They claimed that "since the second week of October, many of the same settlements that had been visited weeks earlier by the Italian Red Cross, received unexpected visits from mixed units prevalently comprising young soldiers from the *Folgore* [a special forces unit] in camouflage gear, generally led by at least one policeman from the river police force". They reportedly asked who was there and who wasn't, and checked everyone's documents, effectively carrying out a "parallel and unreported census". Moreover, police officers and soldiers (now deployed on the streets in Rome) later appeared in camps, "threatening people and destroying shacks and furniture, sometimes beating the men". Mosca, who also received photographs to document the claims, has claimed that the matter will be investigated.

Moreover, Maroni reacted to the first racist attacks after he became minister by claiming that criminals among the immigrant population had their share of responsibility for the incidents, and took things further by acting to discourage criticism of police interventions. Amina Sheikh Said, a 51-year-old Somali woman who is married to an Italian and is hence a legal resident, filed a lawsuit concerning the humiliating treatment she claims she was

subjected to by *Polaria* (air border police) officers in Ciampino airport on 21 July 2008. Held on suspicion of kidnapping, drug trafficking and illegal immigration on her return from a trip to London with four nephews (the suspicion of kidnapping arose from the fact they did not have her surname), and made to strip to be searched, she had comments directed at her such as "This negress is crazy, I'll have her shut up in a mental hygiene centre". Maroni threatened to sue her for damages in relation to her claims that, he said, amounted to defamation against the officers, as he assured that everything they did was legal, prior to any investigation. This was in addition to the charges she was already set to face for resistance to the public officers. A court dismissed her allegations, with the comments directed at her deemed to result from "bad education" rather than racism, as well as charged of "resistance" levelled at her.

*AGI news*, 24.10.2008; *Corriere della Sera*, 30.7, 7.9, 2.10.2008; *Il Giornale*, 30.7.2008; *Il manifesto*, 12.9.2008; *Liberazione*, 30.8.2008; *Repubblica*, 9.9, 30.9, 13.10.2008.

*Global Project*, 28.7.2008, <http://www.meltingpot.org/articolo13132.html>

*Carta* 15.10.2008, <http://www.carta.org/campagne/migranti/15386>

*Statement by Padre Carlo D'Antoni, Siracusa*, 30.7.2008, <http://www.meltingpot.org/articolo13157.html>

*Sucardrom*, 8.9.2008, the Bussolengo incident, <http://sucardrom.blogspot.com/2008/09/bussolengo-vr-picchiati-e-umiliati-dai.html>

*Pestati dalle forze dell'ordine due giovani camerunesi*, *Melting Pot*, 7.10.2008, <http://www.meltingpot.org/articolo13440.html>

*Luca Bertolino of Razzismo Stop speaks of the incident in Padua*, [http://www.meltingpot.org/IMG/mp3/bertolino\\_2.mp3](http://www.meltingpot.org/IMG/mp3/bertolino_2.mp3)

*Frank, one of the victims, speaks of the incident in Padua*, <http://www.meltingpot.org/IMG/mp3/Frank.mp3>

*Memorandum by Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe*, 28 July 2008,

<http://www.poptel.org.uk/statewatch/news/2008/jul/coe-report-italy-roma.pdf>

More information: [www.meltingpot.org](http://www.meltingpot.org) (*Melting Pot Project*) and <http://www.osservatoriorepressione.org> (*Osservatorio sulla repressione*).

## On the targeting of activists in the "War on Terror"

by Gene Ray \*\*

**"There is a clear tendency among states, almost without exception, to criminalise established form of dissent and protest and to re-categorise forms of civil disobedience and direct action as "terrorism""**

Six and a half years into the US-led "war on terror," its most disastrous effects, above all on the people of the Middle East, are well known. This "war" has led to death, destruction and misery inflicted on the peoples of Iraq, Afghanistan, Lebanon, Palestine and elsewhere. Less obvious and visible, however, is the attack simultaneously being waged against progressive social movements and struggles under this planetary state of emergency. In the context of the general militarization of everyday life, an unprecedented expansion and perhaps qualitative intensification of official surveillance, and an erosion of basic civil and democratic rights, there is a clear tendency among states, almost without exception, to criminalize established forms of dissent and protest and to re-categorize forms of civil disobedience and direct action as "terrorism."

The "war on terror" has to be grasped as an innovation in the global use of repressive state power. In effect, it normalizes, as well as globalizes, aspects of the state of emergency or exception – that power of the state to declare the existence of an absolute and intolerable enemy. Following the atrocities of 11 September

2001, the US president did not suspend the US Constitution or declare a curfew. But he did provide in a speech on emergency and exception, including a classic activation of the friend-enemy distinction:

*Whoever is not with us is with the terrorists.*

The proof of the state of emergency can be found in the arsenal of expanded powers asserted in legislation from the USA Patriot Act of 2001 to the Military Commissions Act of 2006, and in similar laws adopted by states across the world. But these markers of exception were combined, in a very schizophrenic way, with an insistence that the normality of everyday life will not be disrupted. "Go shopping," the US president famously told Americans. In other words, good citizens are expected to accept and embrace the new state powers not as a temporary break with normality, but as the arrival of a new normality.

The new powers were swiftly put to use. In a kind of globalized, post-Fordist refinement of the old dirty war tactic of "disappearing" those deemed enemies, state security agencies



and private contractors collaborated in building a planetary network of off-record snatch teams and “rendition” flights, bases and transit camps, and secret prisons for interrogation and torture. Stretching from Guantánamo, Abu Ghraib and Bagram, to Morocco, Syria and Egypt, to Poland, Romania and points still unknown, this network entails the active cooperation of numerous states and their corporate and paramilitary proxies, as well as the complicity of many more. Among its hundreds of victims, as is now well known, are not a few who are innocent.

### **A dangerous precedent**

The actions of the global hegemon have set the precedent for other states to follow. And in general, states have done so, though not to the same degree or with uniform enthusiasm. However, because the pressures to follow the US lead are real and constant, it is urgent to follow and understand how the emergency powers are being interpreted – and *are continuing to expand* – in the US.

As is well understood, by activating a state of emergency, a state invokes the rule of law to exempt itself from the rule of law. Of all the emergency laws asserted *de jure* and *de facto* by the Bush government, the most damaging to the rule of law itself is the restriction of habeas corpus, the right of those detained to be formally charged with a crime or else to be speedily set free. With the new category of “unlawful enemy combatant,” allegedly beyond the protection of the Geneva Conventions, there is a lapse back to arbitrary power, open-ended preventative detentions, secret evidence and legal limbo. The reprehensible return of torture, then, is accompanied by measures that strip victims of any possibility of legal remedy. Those who are not allowed to face their accusers or challenge their detention and treatment before an impartial judge are simply denied the conditions of liberal justice.

These moves directed at the external enemy have been accompanied by real shows of force in the US “homeland” itself. And it is the domestic uses to which the new emergency powers have been put that have raised suspicions that the “war on terror” has from the beginning had the “movement of movements” in its sights, in addition to al-Qaeda and other networks that could more justifiably be called “terrorist.” The changed environment after September 2001 is reflected in ways that immediately impact activists in the streets. First, there has been a clear escalation of repressive measures deployed against demonstrators opposed to the occupation of Iraq; pepper spray, tasers and rubber bullets have all been deployed against protesters, most brutally in Oakland, in April 2003, and Miami, in November of the same year. Second, there has been a reactivation, in new forms, of domestic surveillance programmes that were made illegal in the wake of Watergate and other abuses in the early 1970s. For example, in 2005, news leaked of a database on “possible threats” being maintained by the Pentagon’s secretive Counterintelligence Field Activity Agency (CIFA). The program, called TALON (Threat and Local Observation Notice) monitored anti-war demos in the US and generated files on peace groups, including the Quakers.

Third, the US state is more determined than ever to treat property damage as terrorism. In the US, direct action protests that involve the destruction of property are most associated with ecological and animal rights groups, such as the Earth Liberation Front (ELF), and with anarchist and autonomist groups. While the latter’s attacks on corporate property in urban centres have been largely symbolic and superficial, ecological direct actions have been more strategic and systematic in taking aim at corporate profitability. The FBI claims that the ELF, together with the associated Animal Liberation Front (ALF), has carried out more than \$43 million in property damage since 1996. [1] For this reason, the ELF/ALF has been at the top of the FBI’s list of domestic terrorist threats, even though no one has been killed or injured by these actions and, indeed, the ELF has clearly repudiated violence against people.

Comparatively, violence by right-wing and xenophobic militias in the US is drastically different in kind, motivation and magnitude. The 1995 bombing of the Murrah federal building in Oklahoma City, for example, killed 169 people, many of them children, and injured some 500 more. Yet in the US, these crucial distinctions are suppressed by the “war on terror.” In the tendency of the US state to treat all forms of politically motivated property damage as “terrorism,” deliberate murder and forms of sabotage that do not kill or injure are simply rolled into the same pariah category.

This can be seen in the tendency to apply “enhanced sentencing” guidelines, authorising vastly increased prison sentences for crimes associated with “terrorism.” In 2005, the FBI launched a crackdown on the ELF – the so-called Green Scare. Arrested activists were threatened with draconian enhanced sentences for arson actions that, added up, would have effectively meant spending the rest of their lives in prison. A simple arson resulting in no injuries usually carries a sentence of less than four years in federal cases; with enhanced sentencing, this can be increased to more than 20 years. [2] According to Laren Regen of the Civil Liberties Defense Center, one activist involved in two arsons was threatened with a possible life term plus 1,150 years. [3] Facing such prospects, many activists became informers, and the ELF cells were largely broken in this way. In the case of three activists who pleaded guilty, but refused to inform on their comrades, state prosecutors made a point of demanding the terrorism “enhancements.”

### **Expansion of powers continues**

Although these measures are being contested by the Center for Constitutional Rights, the National Lawyers Guild, the American Civil Liberties Union and other NGOs, and although the Bush government is now unpopular and largely discredited, the trend toward expanded emergency powers continues unchecked in the US. An indication that this trend is a durable policy tendency can be found in the Violent Radicalization and Homegrown Terrorism Prevention Act of 2007 (HR 1955). This bill, which passed the House of Representatives without debate by an overwhelming vote of 400 to 6 in October 2007, is now working its way through the Senate. If it becomes law, it would create a National Commission to make recommendations to lawmakers and a new permanent think-tank – a university-based “Centre of Excellence” to gather and fund scholars and support the Department of Homeland Security in its responses to domestic threats.

The definitions advanced in this bill are wide open. “Homegrown terrorism” is:

*“the use, planned use, or threatened use, of force or violence by a group or individual born, raised, or based and operating primarily within the United States or any possession of the United States to intimidate or coerce the United States government, the civilian population of the United States, or any segment thereof, in furtherance of political or social objectives.”[4]*

“Violent radicalization” means:

*“the process of adopting or promoting an extremist belief system for the purpose of facilitating ideologically based violence to advance political, religious, or social change.”*

In other words, any protest, direct action or act of civil disobedience that can be construed as coercive or intimidating can be classified as terrorism. The loud disruptions of Congressional hearings and sit-ins in Congressional offices conducted by Code Pink activists protesting the occupation of Iraq, for example, could easily be construed in this direction. In fact any disruptive protest tactic – and what good protest is not disruptive? – could be represented as coercive and intimidating, and this indicates that the definition of terrorism is recklessly broad. If this definition is applied to the ELF’s attempts to coerce certain industries, it is no less appropriate to apply the same definition to, say, the Los

Angeles Police Department's far more violent and effective actions aimed at coercing and intimidating ethnic minorities living in the inner city.

More clues to what is going on can be gleaned from the report on which this bill is based. In 2005, the RAND Corporation's Center for Terrorism Risk Management Policy issued a report called *Trends in Terrorism*. The RAND Corporation was founded in 1946, as a joint project of the US Army Air Force and the Douglas Aircraft Company. In 1948, it became an "independent" policy think-tank specializing in systems analysis research. RAND has influenced US state policy in various security-related areas, most notoriously that of counter-insurgency during the Vietnam era. As a respected think-tank and adviser to the US government, the RAND Corporation is far more credible and mainstream than, say, The Project for the New American Century, the militarist Cheney-Rumsfeld-Wolfowitz nexus that came to power with the Bush government. For this reason, it is a more reliable indicator of long-term, non-partisan policy tendencies. It is therefore significant that Brian Michael Jenkins, a RAND counter-terrorism specialist, testified twice in the House of Representatives in support of the Homegrown Terrorism Prevention Act. [5]

### The domestic "terrorist" threat

The RAND report identifies three domestic terrorism threats in the US: anarchists, right-wing extremists and ecological activists on the ELF model (presented in this order in the report). This list of three "threats" of course follows the well-established strategy of representing radicals from the right and left as equivalent forms of "extremism." And in a revealing conflation, all three are associated with the "anti-globalization" movement. "[D]eveloping imperatives stemming from anti-globalization (AG) do appear to be providing a radical domestic context for galvanizing the militancy of both the far right as well as those driven by more specific extremist environmental agendas." [6] The real objection and threat of "AG" is made perfectly clear:

"At [AG's] core is opposition to corporate power and the assumed socioeconomic and political dislocations that are perceived to follow in its wake. In addition, anti-globalists directly challenge the intrinsic qualities of capitalism, charging that in the insatiable quest for growth and profit, the philosophy is serving to destroy the world's ecology, indigenous cultures, and individual welfare." [7]

To be sure, the RAND report avoids any crude or sweeping identification of "anti-globalism" and "terrorism." It satisfies itself with claiming the existence of affinities from which real threats can develop: "Although anti-globalists have been associated with marches, demonstrations, and other acts of civil disobedience in the United States, rank and file activists, for the most part, have eschewed engaging in concerted violent actions, let alone full-blown terrorism. The real threat of the movement lies more in the effects that it appears to be having on anarchist, and, especially, far-right, and radical environmental imperatives." [8]

In other words, activists probably will not be considered terrorists until they cross the line into property damage or forms of direct action that can convincingly be characterized as "coercive" or "intimidating." (Think twice before raising your fist or shouting a slogan at a demo in the US.) But the fact that the movement of movements is identified as "the context" from which terrorist threats are expected to come suffices to confirm fears and suspicions about the additional agendas of the "war on terror." The US state clearly is watching and is prepared to target any attempt to re-compose class or anti-capitalist social struggles. No great surprise, perhaps, but chilling and intimidating in its effects on social movements in the US. European states have not followed the US in this direction uniformly. Some, like Great Britain, have done so enthusiastically; others are showing signs of

reservations in the face of determined civil society campaigns protesting this trend. One can even point to recent small victories in Germany, as the Federal High Court has rejected attempts by prosecutors to classify as a terrorist organization the "militante-gruppe (mg)" suspected of setting fire to a number of *Bundeswehr* trucks and vehicles.

Even so, activists outside the US should be aware that this, still, is the direction in which the global hegemon is moving. The overwhelming vote in the House affirming the Homegrown Terrorism Prevention Act demonstrates the depth of bipartisan support it enjoys. There has been no significant corporate media coverage or public debate over this resolution, which will certainly become law in some form in the coming months. Meanwhile, no leading presidential candidate has bothered to address the repressive impacts of the "war on terror" on activists and progressive social movements. Together, these facts confirm that both dominant parties and the political class as a whole accept the assumptions outlined above and that no differences of position exist in this regard that are considered worthy of public notice and debate. The conclusion to be drawn is clear: the US state will continue to exploit the politics of fear and the exceptional and emergency powers asserted in the "war on terror" in order to represent activists as "terrorists" and to intimidate and repress the movement of movements.

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\*\* *This article was first published as an online correspondence for the Transform project of the European Institute for Progressive Cultural Policies (eipcp) at <http://transform.eipcp.net/correspondence/1202292557>*

[1] *Testimony of James F. Jarboe, Domestic Terrorism Section Chief, FBI, before the House Resources Committee, February 12, 2002; online at <http://www.fbi.gov/congress/congress02/jarboe021202.htm>*

[2] *Michael Donnelly, "Green Sabotage as 'Terrorism,'" Counterpunch, May 26/27, 2007, online at [www.counterpunch.org/donnelly05262007.html](http://www.counterpunch.org/donnelly05262007.html)*

[3] *"Facing Seven Years in Jail, Environmental Activist Daniel McGowan Speaks Out About the Earth Liberation Front, the Green Scare and the Government's Treatment of Activists as 'Terrorists'," Democracy Now!, June 11, 2007, online at*

*[http://www.democracynow.org/2007/6/11/exclusive\\_facing\\_seven\\_years\\_in\\_jail](http://www.democracynow.org/2007/6/11/exclusive_facing_seven_years_in_jail)*

[4] *The full text is online with the US Library of Congress at: <http://thomas.loc.gov/>*

[5] *Center for Constitutional Rights, "Factsheet: Violent Radicalization and Homegrown Terrorism Prevention Act of 2007," online at <http://ccrjustice.org/learn-more/faqs/factsheet%3A-violent-radicalization-and-homegrown-terrorism-prevention-act-2007>*

[6] *Peter Chalk, Bruce Hoffman, Robert Reville and Anna-Britt Kasupski, Trends in Terrorism: Threats to the United States and the Future of the Terrorism Risk Insurance Act (Santa Monica, CA: RAND Corporation 2005), p. 39.*

[7] *Ibid.*, pp. 39-40

[8] *Ibid.*, p. 41

## Border wars and asylum crimes

by Frances Webber

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# Germany: "Banana Republic" or institutional racism? Impunity reigns over black death in custody

by Katrin McGauran

**Examining the highly suspicious death in custody of Oury Jalloh, this article details the institutional and popular racism that allows abuses against refugees and migrants to occur in Germany**

*"For many of us, it is just as plausible that Oury Jalloh was seriously beaten by the police — which unfortunately occurs frequently — later to be burned: be it to kill him or be it to hide his death." [1]*

In 2005, *Statewatch* reported on the death of Oury Jalloh, who burnt to death in a police cell in the German city of Dessau whilst he was handcuffed to a fire-proof mattress (see *Statewatch* Vol. 15 no 1). The public prosecutor only began investigating after public pressure and demands for an independent inquiry. A support campaign was formed by friends of Jalloh and anti-racist activists. The police claim that Oury Jalloh set fire to the mattress with a lighter that was overlooked when they searched him. The public prosecution service agrees with this version of events, but many anti-racist activists and friends of Jalloh do not. Alongside the obvious difficulty of committing suicide while shackled, there have been a series of inconsistencies in the evidence and in police officers' statements during the trial. Due to the lack of confidence in a comprehensive investigation and objective prosecution, an international jury of independent observers was formed to monitor the trial [2]. But despite the concerted efforts of campaigners and critical reports from trial monitors, many of whom are lawyers themselves, it appears that the responsible police officers will enjoy impunity.

## Chronology of events

Oury Jalloh fled from Sierra Leone during the civil war via Guinea to Germany in 2000, where his application for asylum was rejected, although he was granted temporary ("tolerated") status and housed in an asylum seekers home in Dessau. He was arrested on 7 January 2005 after two Dessau municipality employees called the police when Jalloh would not stop asking them to borrow their mobile phone. He was allegedly very drunk and was arrested. At the police station, a doctor took a blood sample which showed a high level of alcohol, but he certified Jalloh fit for detention. Officers searched him and then tied his hands and feet to a cell bed, a method of restraint only allowed if there is suspicion of self-harm, but otherwise classified as torture by the Council of Europe's Committee for the Prevention of Torture. Officers justified this restraint method by arguing that Jalloh had banged his head against the wall. They say they checked on him every half an hour until 11.45pm without noticing any abnormalities. At midnight the cell's fire alarm went off, but it took Andreas Sch. 11 minutes to reach the cell, by which time it was full of smoke (it is these 11 minutes that the trial focuses on, as the court presumes suicide and the charge is negligence resulting in death). At around 12.35, fire fighters entered the cell and found Jalloh's charred body. The first post mortem examination could not establish the exact cause of death, but assumed that he died of heat shock, because his lungs did not show signs of smoke inhalation.

On 15 February 2005, the Dessau public prosecution presented the official version of events, in which Jalloh killed himself by setting alight the mattress with a lighter overlooked during his body search. Doubting this version of events, in April 2005 the "Oury Jalloh Remembrance Initiative" arranged a second post mortem examination of Jalloh's body, which found

he had suffered a broken nose and a damaged middle ear. On 6 May 2005, the Dessau public prosecutor's office filed charges against two police officers. Police chief inspector Andreas Sch. was charged with bodily harm resulting in death and Officer Hans-Ulrich M. was charged with negligence resulting in death, because he allegedly failed to detect the lighter when searching Jalloh. Oury Jalloh's parents applied to become joint plaintiffs in the criminal proceedings, represented by two German lawyers. One lawyer demanded an x-ray of Jalloh's body, which the public prosecution refused. Therefore, the Oury Jalloh Remembrance Initiative assembled an international panel of prominent human rights activists from the UK, Germany and Africa to monitor the trial.

Almost two years after Jalloh's death, in January 2007, the 6th Criminal Division of the Dessau regional court submitted the charges in court. The trial started on 27 March 2007 and is expected to end in December 2008. In August 2008, the Oury Jalloh Initiative withdrew from what they describe as a "farcical" trial, arguing that the court's presumption of suicide does not allow for a full and independent investigation of what some believe might be murder.

## The trial

The trial, including witness statements, joint plaintiffs' questions, defence reactions and the judge's conduct has been meticulously monitored by the trial monitoring group [3]. The injuries on Jalloh's body, identified at the second post mortem examination, and the events surrounding his death have not been established by the court due to inconsistencies in police statements. The police version of events is as follows: while Jalloh was locked up police officer Beate H. reported that she heard him complaining loudly over the intercom system, demanding to be released. She heard her colleagues check the cell at regular intervals. In between she visited him and tried to calm him down, but around 11pm the shouting increased. Back in the office, her colleague, and head of the patrolling police force, police chief inspector Andres S., turned down the intercom because he felt distracted while making a phone call, but Beate H. protested and turned it up again. Shortly after midnight, both reported hearing a ripple of liquid from the cell and shortly afterwards the cell's fire alarm went off. Both believed that this was a malfunction and according to Beate H., Andreas S. switched the alarm off twice. After switching the first alarm off, the fire alarm in the ventilation shaft went off.

At this point their evidence becomes unclear. In her first statement, Beate H. said that the fire alarm had been repaired in 2004 and had not shown any signs of malfunction since. She also observed that Andreas S. only went downstairs to check the cell after the alarm went off for a third time and then only after she urged him to do so. She has since retracted these statements and now claims Andreas S. went to the cell immediately, although when this was exactly she is not sure. Also, the statements by Gerhard M. and Andreas S. were initially in agreement when they stated that when they opened the cell door at ten minutes past midnight, the cell was full of smoke and they could not enter. But, when pressed at another hearing, Gerhard M.

admitted he entered the cell but was unable to act: "I could not help him, it was impossible. I didn't have the keys [to the handcuffs]". The keys should have been with Andreas S., but according to Gerhard M's revised statement he was not there because he was "getting some air". If this version of events is true, Jalloh would have burned to death in front of Gerhard M's eyes. Then Andreas S. claimed that he made a phone call to his superior from the porter's office before arriving at the cell; Gerhard M., however, denies this.

More bizarre still are the different reconstructions that have been offered by the defence as to how Jalloh could have got a lighter into his cell. First they claimed that it had missed it during the police search. Later, presumably because the searching officer was charged with negligence resulting in death, an officer said that he noticed after the search that his lighter had gone missing. The statements of 30 police officers were contradictory throughout the trial which led Judge Manfred Steinhoff to shout "We don't live in a Banana Republic!"

But apart from conflicting statements - and the critical question of how a man who was shackled hand and foot to an inflammable mattress managed to set fire to it with a lighter that was not found when he was searched - there are more facts that indicate that the death of Jalloh was not self-inflicted:

*The lighter with which Jalloh allegedly set fire to the mattress was not found in the cell during the first search by police on 10 January 2005, and only appeared on the evidence list a day later. The lighter showed little evidence of fire damage.*

*Several witnesses reported seeing a pool of unidentified liquid on the floor of the cell, and police officers reported hearing a ripple of liquid from the cell before the fire alarm went off.*

*The second post mortem examination revealed that Jalloh had a broken nose and damaged middle ear, whilst the first post mortem only noted that he had died from heat shock.*

*If Jalloh burned to death, it is unlikely that screams from the cell would have gone unnoticed, as it is connected to the police station offices through an intercom system.*

*Oury Jalloh's body was severely charred which does not fit with police claims that a fire started with a lighter would burn the body to such an extent.*

*The police 'lost' a CCTV video of the first crime scene investigation*

All of these inconsistencies have led campaigners to point to the structural problem of impunity when it comes to black deaths in custody, which is commonly referred to as institutional racism.

### **Institutional racism and black deaths in police custody**

In the late 1960s, Black Panther and civil rights activist Stokely Carmichael defined institutional racism as:

*the collective failure of an organisation to provide an appropriate and professional service to people because of their colour, culture or ethnic origin.*

This definition was adopted almost word for word by the UK's MacPherson inquiry into the racist murder of black teenager, Stephen Lawrence, and the inadequate response to it by the police and judiciary. Despite copious evidence the courts failed to sentence the perpetrators and the police and media initially attempted to stigmatise Lawrence as a trouble-maker. A. Sivanandan, director of the UK-based *Institute of Race Relations* places emphasis on the interaction between institutional and individual racism when he defines institutional racism as:

*that which, covertly or overtly, resides in the policies, procedures, operations and culture of public or private institutions - reinforcing individual prejudices and being reinforced by them in turn.*

Institutional racism in relation to black deaths in custody frequently entails the depiction of the fatality as suicide, or down

to ill-health, often drug-related. State representatives, such as the prosecution services, and sometimes doctors providing medical reports and journalists, invariably repeat police statements and fail to ask fundamental - often common sense - questions. Their response leads to silence: a silence which, firstly, permits the failure to ascertain accountability, (i.e. charges are seldom pressed or an investigation into the death is either not instigated or not thoroughly researched). Secondly, even if an investigation does take place, it allows for the prosecution to presume a self-inflicted death or, in a few cases, death by accident or negligent conduct.

In Germany, there has never been a black death as a result of contact with the authorities that has resulted in an investigation that reached the conclusion that the victim was murdered. Nor has an investigation concluded that institutional police racism can lead to black men being locked up in custody and being treated in a degrading and life-threatening manner. In fact, the word racism almost never appears as a contributing factor to a black death in custody. All of these indicators for the existence of institutional racism exist in the Oury Jalloh case: from Jalloh's arrest, his treatment by police during and after his arrest, the arguments for his incarceration, the circumstances surrounding his death, the ongoing trial, as well as the public response to wakes and demonstrations organised by various anti-racist initiatives.

### **1) The Arrest and detention**

Two women reported that they were being harassed by a black man, (or as one of them referred to him during the trial, "the African"), creating a scenario in which the police seem to have a standard response. The likelihood that the police will not arrest this man is very low. At the second Black African Conference that took place in Dessau in January 2007, Cornelius Yufanyi, one of the spokespersons for the Jalloh Initiative and active in the African Refugee organisation, *The Voice*, reported: "More than half of the Africans sitting here have been in a police cell before, including me" [4]. When Jalloh's friend Mouctar Bah was asked during the trial whether Jalloh had any history with the police, Bah replied that he had never been arrested, but that all asylum seekers in the home where they lived together had regular contact with police because they are regularly stopped and searched in the streets and asked to produce identity documents [5].

Once at the scene, police arrested Jalloh, despite the fact that the women only reported feeling harassed, and that there had not been any physical contact. Jalloh, who was drunk, is said to have resisted arrest and the police forced him into their car and drove him to the police station. There they found Jalloh's identity papers and a certificate for an asylum seekers' temporary residency permit. At this point, the police could have released him awaiting a complaint by the two women. Yet they detained him on the spurious grounds that his papers were hard to decipher and needed to be verified.

### **2) The treatment of black people in custody**

The police took Jalloh to a cell and handcuffed his hands and feet to a bed, reportedly because he struggled. However, his resistance was the result of an unwarranted incarceration (no crime had been committed or even reported), and he suffered torture (Jalloh was handcuffed in a stress position which has been declared a form of torture by the Council of Europe's Committee for the Prevention of Torture) [6]. At the trial, the only justification for this treatment was that Jalloh had banged his head against the wall: it could equally well be argued that this behaviour was the result of a police action, and not an indication of suicidal behaviour. Jalloh complained frequently about being shackled but was told by police officers that they would not release him. The officer in charge even turned down the



intercom's sound so as not to be disturbed by the sounds of distress whilst making phone calls.

Another common occurrence in the event of injury or death is the portrayal of the victim as dangerous and/or of unruly character. The questioning of Jalloh's friend Mouctar Bah during the trial, for example, revealed that statements he had made about Jalloh to the police were misconstrued. This was later explained by the absence of an interpreter during the interrogation. However, one finds it hard to believe that police officers did not have an ulterior motive when interpreting Mouctar Bah's reply to the question of whether Jalloh drank alcohol ("yes a little") as "he sometimes created problems when he drank". "I never said that", Bah complained during the court hearing [7].

### 3) The institutional response to black deaths in custody

The common response to a black death as a result of police action is the failure to prosecute or at best a slow response by the public prosecution service. In Oury Jalloh's case, it was only after sustained pressure that the prosecution pressed charges and then not for murder, but negligence. This decision was reached after the presentation of police evidence and not as the outcome of an independent investigation. It took another two years for the charges to be tested in court. A first medical report showed no signs of interference with the body, whilst a second independent examination did. An x-ray of Jalloh's body was rejected by the prosecution on the grounds it was unnecessary; this affirmed the suicide theory before the factual circumstances surrounding Jalloh's death, (which makes murder just as, if not even more, plausible than self-harm), had even been investigated.

It is, therefore, no surprise that the campaign for justice concludes:

*Since Oury's murder, neither the court nor the State Prosecutor has shown any interest in discovering the truth behind the events in Dessau. Rather, the case has been plagued by two years of impediments, cover-ups and the refusal to cooperate with the lawyers of Oury's parents. For the recognition of the mother and father as co-plaintiffs in the case alone, the court required 17 and 15 months respectively to reach a decision.[8]*

This statement echoes the frustration and hurt about the treatment of family and friends in a trial that should have been vigorously led by the public prosecution.

This brings us to another crucial indicator for the existence of institutional racism.

### 4) The response to justice campaigns and anti-racist initiatives

Racist attacks and deaths in Germany as a rule do not trigger a swift response from the authorities, such as the offering of condolences to the victim's family or an admission of failure, whether institutional or political. It took the Dessau municipality until March 2007 to apologise to Oury Jalloh's mother for the death of her son, which was also when the mayor of Dessau issued his condolences. Furthermore, the authorities' response to the campaign for justice was negative. Trial observers were heavily policed in front of the court and regularly stopped and searched. In 2006, the local authorities ordered Mouctar Bah's Telecafé in Dessau to be closed and his commercial license revoked. According to Bah and anti-racist supporters, this was because the Telecafé is a place where Africans living in and around Dessau can meet. The authorities had tried to close the café before, arguing Bah had no license to sell food, which he did. His premises were searched and for a year the Halle Administrative Office had the case before them yet undertook no action. The campaign says Bah is being targeted for having publicly led the campaign for justice. The municipality's argument for closing his café confirms all of the racist stereotypes about Africans in Dessau: they allege Mouctar Bah

tolerated people on his premises who sell drugs in a neighbouring park, but failed to produce any concrete evidence to support their allegations. All of Bah's appeals were unsuccessful. A joint press release (30.1.06) by anti-racist initiatives concludes:

*The obvious collaboration between the different state agencies serves to deny any connection whatsoever between racism, the murder of Oury Jalloh, and the closing of Mouctar Bah's shop. Yet both the impunity in the case of the murder of Oury Jalloh and the closure of Mouctar Bah's store in Dessau in such a bureaucratic and silent manner - consistent with the times we are living in - clearly demonstrate cooperation between the different institutions and their attempts to cover-up the truth as to the death of Oury Jalloh and to break any resistance against such inhuman and undemocratic measures.[9]*

### 5) Overt state racism - blind in the right eye

Institutional racism also manifests itself through the deliberate frustrating of attempts to prosecute race crimes. An instance was revealed in May 2007 when - shortly after the trial began - Hans-Christoph Glombitza, the Dessau deputy chief of police was quoted telling three police officers responsible for fighting right-wing crime in Saxony-Anhalt, that the regional interior ministry, crime police and police departments were "not happy" with the rise in the *reporting of* (rather than the existence of) right-wing crime in the state. High crime figures would negatively impact on the population's sense of security and inflict "sustainable damage to the reputation of our [regional] state". He told the three "not to see everything" and advised them: "there are ways to write reports slowly".

Glombitza's advice came at a time when a Dessau anti-racist group had researched and recorded 168 incidents of right-wing extremist or racism in the region in 2007 alone [10]. The internal security service (Federal Office for the Protection of the Constitution) confirmed this picture: Saxony-Anhalt had the most crimes with a right-wing background per head. The highest rate was in Dessau, where right-wing crime had risen from 141 incidents in 2004, when the three officers started their job, to 238 in 2005 and 392 in 2006. It appears that racist and right-wing crimes were for the first time being tackled by the police and classified as such, rather than treated as regular crime and recorded as juvenile delinquency, a common occurrence in Germany. Steffen Andersch from the Dessau Civitas Network Point against the Right (*Civitas-Netzwerkstelle gegen Rechts*) says that the three officers' "link[ed] criminal offences with their right-wing context", thereby increasing right-wing crime statistics. Apparently, this was not their superiors' desired outcome and the officers were transferred, after which the number of right-wing crimes in the state was cut by almost half [11].

Embarrassing for Holger Hövelmann, (Social Democrat and regional interior minister of Saxony-Anhalt), was Glombitza's alleged reaction to the regional government's new attempt to fight right-wing crime with a campaign entitled "Do not ignore it!" When asked by the three officers how his advice "not to see everything" tallied with the government's campaign, Glombitza offered the explanation that it merely served party political purposes: "That's just for the gallery, don't take it seriously."

These are revealing statements, yet they have not led to even a reprimand. Although the Left Party in the regional parliament has said that it wants to investigate these statements, the interior minister stood behind its deputy chief of police. Indeed, it is not Glombitza who has to fear investigation; it is the three police officers who revealed his statements - they are being investigated for not reporting them to the police. When confronted with the allegation that the government's campaign was not meant to actually reduce crime, and that the three officers were transferred (and then suspended) in order to reduce the right-wing crime

figures, Hövelmann offered an alternative explanation to explain the drop in race crimes: "Maybe the [government's] campaign has shown its first fruits" [ibid].

Also under investigation is Steffen Andersch from the anti-racist Network Point. He showed a picture of a local NPD politician at a public meeting on right-wing extremism. A police officer reported him for using a picture without the permission of the person represented. This politician was then invited to the police station and advised to initiate legal proceedings against Andersch for slander.

The three officers have in their turn have requested that the regional public prosecutor investigate the police department on suspicion of deliberately prosecuting innocent people. They also want an inquiry into the local public prosecutor for failing in his duty to prosecute a suspected crime, in this case the statements made by the deputy chief of police. All three have been served with gagging orders, and they are calling for public support, "because we want the truth to be uncovered". [12]

The attitudes of high-ranking officers and their apparent impunity would appear to be reflected at all levels of the force. A telephone conversation between a police chief inspector and defendant in the trial and the doctor on duty points to this being the rule rather than the exception. Andreas Sch. phoned the neurologist:

AS: "We need you"

Neurologist: "What have you got?"

AS: "A blood sample"

Neurologist: "I'll do it"

AS: "Yes, prick a black African"

Neurologist: "Oh shit, I can never find a vein with the dark-skinned ones"

AS: "Well, bring a special needle".

## 6) Overt public racism

Institutional racism is paralleled by individual prejudices, and racism has been a common public reaction to the campaign's demand for justice. Following Sivanandan's definition, overt racism is reinforced by the institutional racism observed above, which in turn reinforces the same.

Shortly after Jalloh's death and the demands for an investigation, the Magdeburg district chapter of the right-wing *Nationaldemokratische Partei Deutschlands* (NPD) began a slur campaign against the Initiative In Remembrance of Oury Jalloh, under the slogan: "An African burns himself and again the police are blamed". The NPD says Jalloh had been: "fed and supported by the German Volk, enjoyed medical care and all sorts of social support", and that "no one would have expected that Mr Asylum Seeker, with the help of a lighter he had stashed away, heats up the mattress within a few minutes to 350 degrees Celsius. After all, this temperature is too much even for a West African who is used to the heat" [13]. Local anti-racist initiatives have brought legal proceedings against the NPD on grounds of the denigration of the dead, incitement to hatred and slander.

Racist incidents continue. During a wake commemorating Jalloh, a participant noticed a stall at a nearby flea-market offering for sale a photograph of Adolf Hitler, showing the dictator in a cheering crowd of supporters [14]. A year later, at a silent march remembering Oury Jalloh in January 2008, an older man, observing the demonstrators, shouted "Sieg Heil" [15]. The Advice Centre for Victims of Right-Wing Violence (*Beratungsstelle für Opfer rechter Gewalt*) and Civitas-Network Point against the Right have initiated legal proceedings against unknown persons because of the hate mail they have received. Last but not least, a mobilisation video with a commentary by Mumia Abu Jamal, publicising a protest in August this year,

shows a local man being interviewed about the case. He leaves no doubt as to his thoughts on black people: "I don't give a shit if he burnt to death", he says, "as far as I'm concerned the cell can be full next time" [16].

## Conclusion

The facts presented above, contrary to Judge Steinhoff's assertion that Germany might show signs of becoming a "banana republic", demonstrate that Germany's criminal justice system is institutionally racist. The responses by the police, political parties and judiciary to the killing of Oury Jalloh have been similar in every comparable incident. For instance, when police shot 21-year-old, Dominique Koumadio, in the heart for refusing to put down his knife in Dortmund on 13 April 2006 or when refugee Mohammed Selah died at the age of 23, on 14 January 2007, after being denied basic medical treatment in Remscheid. On the same day that Oury Jalloh burned to death in the Dessau police cell, another black man died at the hands of the police; Lauer Coned had chemicals forced down his throat by officers who were looking for the drugs he might have swallowed. He died, failing to come out of the coma that was induced by the police action. And it is not only black people who suffer from police abuse. At the same Dessau police station, under the leadership of Andreas Sch., and with the same doctor who certified the detainee fit for detention, Mario Bichtemann died after 15 hours of incarceration after receiving head injuries. An investigation into Andreas Sch. was dropped due to "difficulties in ascertaining the cause of events".

Again, the conclusions reached by the justice campaign may well be correct:

*The General Public Prosecutor has already absolved the police of any criminal guilt. The justification: self-defence. Indeed, crimes by the police enjoy almost complete impunity, especially when those crimes are committed against refugees and migrants. Indeed, German police abuse refugees and migrants on a daily basis, and physical mistreatment is widespread, although punishment is rare - if it ever gets that far. In general, it is fair to say that the police force, just as society, is dominated by a racist, inhumane consensus that sees refugees and migrants in general as sub-human.* [17]

## Notes

[1] Initiative in Memory of Oury Jalloh, press release 14.6.05, Berlin/Dessau: <http://thecaravan.org/node/298>

[2] More detail on the composition of the monitoring group is available at [http://de.wikipedia.org/wiki/Oury\\_Jalloh#cite\\_note-8](http://de.wikipedia.org/wiki/Oury_Jalloh#cite_note-8)

[3] <http://initiativeouryjalloh.wordpress.com/presse/>

[4] <http://ouryjalloh.wordpress.com/newspresemittelungen/>

[5] See the trial reports on <http://ouryjalloh.wordpress.com/>

[6] Report to the German Government on the Visit to Germany Carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), from 20 November to 2 December 2005, adopted on 7 July 2006. CPT (2006) 36, Strasbourg, 28.7.06 <http://www.bmj.de/files/-/2044/CPT%20Report%202006.pdf>

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25,000 plus entries

## Statewatch database

<http://database.statewatch.org/search.asp>

## Spain: Local police forces' activity grows inspite of scandals and lack of accountability by Guillermo Presa Suarez

**Concerns mount in Spain at growing police powers and a climate of impunity. The judiciary, far from limiting police practices, repeatedly express view validating their irregularities.**

*"To say that Law is the rule of force means, in other words, that the Law is the combination of norms that regulate the when, who, how and how much of the exercise of coercive power"* (Norberto Bobbio, "Contribución a la Teoría del Derecho")

The media has been gathering information about cases involving excesses and corruption by members of different police bodies, which are responsible for watching over the free exercise of fundamental rights and civil liberties and for maintaining citizens' security and public order. As established in art. 104.2 of the Spanish Constitution which obviously in applying the principle of legality in Art. 9 of the Constitution, must act with absolute respect for the law. This applies to the State Security Bodies and Forces (an expression used in Spain to refer to the different police and security forces), which includes members of the various police forces created by local councils as they developed the municipal authorities' autonomy that is constitutionally recognised.

The most recent case is one that took place in Sada (*La Voz de Galicia*, 17.08.08), in which the *Guardia Civil* came across a secret archive containing the personal data and photographs of dozens of citizens, including minors, gathered over the last ten years by members of the town's local police force *Unidade de Seguranza Cidadá* (Citizens' Security Unit). It is only the latest incident in a catalogue from which others can be highlighted, such as the conduct of the Crevillent (Alicante) local police force. There, advised by a private security firm, officers searched a bar wearing balaclavas, with green camouflage paint around their eyes and armed with guns. They fired into the roof of the establishment and sprayed customers with toxic gas, as the *Asociación Unificada de Guardias Civiles* (AUGC, Unified Guardia Civil Association) reported on 9 March 2006.

Another well-documented case is that of the Marbella (Málaga) police chief who was released on bail after being charged with failure to comply with his duty to pursue criminal offences, carrying weapons illegally, gerrymandering and a cover-up (*Agencias*, 09.05.07). Or the detention of 11 local police officers at Torrevieja (Alicante), among them the police chief, who are charged with torture, falsifying a public document and failure to comply with their duty to pursue criminal offences (*Europa Press*, 23.08.06). The paradigmatic case in Coslada (Madrid) saw the detention of 26 local police officers, including the chief of police, who were implicated in a corruption ring that involved extortion from prostitutes, bars and shops (*rtve.es*, 29.04.08).

These incidents confirm the experts' diagnosis. During an inquiry into corruption and good governance, Transparency

International's Peter Eigen clearly stated that "the milieu in which there is most corruption in Spain is that of local government". It is a conclusion that coincides with that reached in the 2002 report by the *Defensor del Pueblo* (ombudsman), which identifies municipal administrations, and more precisely the area of town planning, as being "one of the foci of permanent corruption".

### Gaining ground

As a consequence of the strengthening of local councils as basic bodies of the territorial organisation of the State (art. 1.1 of the Law on the Bases of Local Regimes), autonomous competencies have been granted to municipalities in some fields, which, among others, includes public security, civil protection and local traffic control. As a result, in accordance with art. 104 of the Constitution, the Organic Law on State Security Forces and Bodies (*Ley Orgánica de Fuerzas y Cuerpos de Seguridad del Estado*, LOFCSE) (art. 51.1), local institutions are allowed to create their own police bodies, an option that was enthusiastically taken up by councils.

Recently, some voices have sought the extension of local police forces competencies and promote moving beyond the limits imposed on their functions. These functions are basically carried out in the field of administrative policing (ensuring compliance with municipal edicts and orders, and protecting municipal authorities and buildings) and the direction of wheeled traffic in urban areas. Security police functions are at a different level and are carried out in co-operation with state and regional police bodies (institution of proceedings to certify traffic accidents in the town and conducting pre-emptive inquiries to prevent criminal acts), and the state security bodies and forces must immediately be informed (art. 53 of LOFCSE). This is in accordance with an organisational model that reflects the post-constitutional decentralisation of the state and makes the extension of competencies of regional police forces prevalent, subordinating local police forces. It is a choice that is explained by the "so-called Basque problem", which caused the legislator to be very cautious when it came to expanding the range of competencies of local police bodies that, one must not forget, are under the command of the mayor of the municipality" (Martínez Pérez, "*Policía judicial y Constitución*", Ed. Aranzadi, 2001).

Hence, the participation of local police in a criminal investigation is limited to co-operation with the State Security Forces and Bodies, without prejudice to their duty to intervene when they find out about the commission of a criminal act, and the undertaking of necessary preventive steps, such as the arrest

of the people responsible, the protection of victims or the gathering of evidence. It has to report its intervention immediately to the competent police body.

In spite of the legal framework that limits their functions, and as a consequence of using the concept of citizens' security in the political discourse, there has recently been an extension in local police forces' interventions in the field of judicial policing, that is, in investigating and pursuing criminal offences. Thus, since 2002, with the amendment of Royal Decree 769/1987 that regulates the judicial police, local police representatives participate in meetings of the provincial judicial police co-ordination commission.

The Framework Agreement for Co-operation and Co-ordination between the Interior Ministry and the Spanish Federation of Municipalities and Provinces in the Field of Citizens' Security and Road Safety (20.02.07), in section III, on the "Participation of the Local Police in Judicial Police functions", stipulates that such co-operation may be agreed, insofar as the receipt of accusations and the investigation of events are concerned, when they constitute a misdeed (*falta*) or less serious offence.

Encouraged by these legal concessions and by the securitarian trend that seeks to increase the numbers of officers in the fight against crime (including, for example, the port police or the customs surveillance service), local police forces are increasing their *de facto* functions in criminal investigations, with ever-increasing spaces appearing for police action. This has occurred without anyone appearing to notice the absence of training for local police officers, as well as the scant resources on which they depend which are proportional to the budget of their respective councils.

Practically all local police forces in large cities have set up "Information Services" (*Servicios de Información*, S.A.I.) and "Investigative Units" (*Unidades de Investigación*) that, with complete autonomy and without the oversight of the police station, carry out judicial police functions, using plainclothes and armed officers. These units are completely lacking in regulation

and undertake investigative activities without limiting themselves to minor offences. They intervene in serious offences such as drug trafficking, they carry out monitoring and surveillance operations for months without informing a judge, prosecuting magistrate or the State security forces. This has become habitual practice. The mayor of Sada, for instance, claimed that with Pontevedera's local SAI "what was happening, was that in practice there were two parallel police forces".

### Complicities

The judiciary, far from limiting such practices by exercising control as it is required to do by the Constitution, repeatedly expresses views validating their irregular activities. Thus, the Supreme Court accepted the intervention of the Valls (Tarragona) local police force in a judicial police role as proper in its ruling of 20 November 1989. It also deemed the actions of the Ponferrada local autonomous police investigation group as valid in its ruling of 14 November 1992, overlooking that, as Ballvé said "The question of police organisation is the crucial point in classifying a State as social and democratic under the rule of Law".

Once the planned unification of the *Policía Nacional* and the *Guardia Civil*, to which the PSOE had committed itself in its electoral programme, had been forgotten, it seems that we were heading towards a diametrically opposed concept, that of compartmentalising and diversifying police bodies. This is detrimental to the rationalisation of resources and their operativity, due to the difficulty of setting out boundaries between them in terms of competencies, giving rise to parallel actions that are free from any regulation and most of all, from any control.

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## UK: Inquiry into "state sanctioned abuse" of asylum-seekers

by Trevor Hemmings

### Attempts to hold the state to account over appalling immigration detention conditions face a "coordinated defence of the indefensible"

*"It's been too easy getting into this country [UK] in the past and it's going to get harder"* New Immigration Minister, Phil Woolas

On 30 September *The Independent* newspaper reported that the Home Secretary, Jacqui Smith, had appointed Nuala O'Loan, the former Police Ombudswoman of Northern Ireland, to conduct an investigation into allegations of the systematic mistreatment of hundreds of asylum-seekers during their detention and forced removal from the UK. The newspaper says that O'Loan has been given "a wide remit to reopen alleged cases of brutality". She has also been asked to report on any failures of a system that allows private security guards to use "reasonable force" in restraining asylum seekers.

Back in October 2007, *The Independent* ran a front page article, entitled "We'll show you what illegal people deserve in this country", that reported on 200 cases of physical assaults, beatings and racist abuse against failed asylum-seekers by private security guards contracted to run immigration detention centres. The report merely confirmed what detainees themselves and their supporters on the ground had been saying for many

years. When asked about the report in a television interview, the Home Office Minister, Liam Byrne, acknowledged that he had not read it. The then Border and Immigration Agency (BIA) reacted by denying that there was any evidence to support the allegations and demanded to see proof so that they could investigate the claims. In Parliament government ministers accused the newspaper of failing to provide any evidence for its accusations and even implied that the story was exaggerated or fabricated.

The state's position was rebuffed, initially by the Home Office's own Complaints Audit Committee, which was set up to monitor the Home Office's procedures for investigating complaints, which confirmed the high level of allegations of mistreatment made by failed asylum-seekers. It said it had received about 190 complaints of alleged assaults in the previous twelve months.

In July 2008 lawyers from Birnberg, Peirce & Partners representing victims of abuse, and working with Medical Justice (MJ) and the National Coalition of Anti-Deportation Campaigns (NCADC), was given permission by those alleging assault to



publish a dossier and provide the Home Office with further information. The dossier, *Outsourcing abuse: the use and misuse of state-sanctioned force during the detention and removal of asylum-seekers* reports on 300 cases of physical assault. However, many additional cases are not covered partly due to a lack of resources and to the fact that some victims are terrified of coming forward in fear of reprisals.

The *Outsourcing abuse* report was launched at a press conference held at Garden Court chambers on 14 July with speakers including Dr Frank Arnold from Medical Justice, Harriet Wistrich from Birnberg, Peirce & Partners, Emma Ginn from the NCADC and the Labour MP, Dianne Abbott; most importantly ex-detainees featured in the report attended along with doctors who visit the detention centres. Wisbech spoke on the legal ramifications, “the extent of the lawless disregard for basic rules in the application of force” and the “wholly inadequate system for investigating often extremely serious criminal allegations.” She argued that the UK’s reputation for justice was becoming more and more tarnished as the asylum system was re-traumatising those who had fled violence in what amounted to torture. Her view was endorsed by Apollo Okello, a failed asylum seeker from Uganda, who said that he underwent “psychological and mental torture” while in detention. He added:

*They are doing it to make life more difficult for you so that you accept going back. All they care about is that you have left the country and they have met their target for removals.*

Dr Arnold, one of 18 independent doctors to give evidence, described the serious injuries often with long-term effects that he had witnessed:

*I have seen many injuries with long lasting effects; crushing of nerves at the wrist from forceful pulling on handcuffs, limitation of neck movement by patients whose heads were pushed under aircraft seats, numbness of the face after blows around the cheek and eye. I have also seen a dislocated wrist, giant bruises and swellings the size of my fist. I have seen far worse abuses but I do not have the patient’s permission to reveal confidential medical information.*

Emma Ginn (NCADC) asked why, when asylum applications are at a 14-year low the proportional use of detention had increased seven-fold: “The government is driven by seemingly arbitrary targets on deportation and plans a near doubling of detention centre capacity”. She described the assaults covered by the report as “the tip of the iceberg”, noting that “a third of the cases we documented were regarding alleged assaults against women and a significant number were cases of children who witnessed their parent being assaulted.” Part 2 of this report details 48 cases which do not appear to have been adequately investigated.

The Labour MP, Diane Abbot, summed up by describing the report as follows:

*I have just read one of the most shocking reports about our immigration system that I have seen in 20 years as a Member of Parliament. The report “Outsourcing Abuse” catalogues the frightening state-sponsored violence that happens to asylum-seekers when they are being deported... This report suggests a complete failure [by the Home Office] to investigate many of the allegations... [It] is distressing and upsetting for anyone to read. But for Ministers it is a damning verdict on their inability to inject even a shred of humanity into a failing immigration system.*

Notwithstanding the numerous well founded allegations of assaults on asylum seekers over the years, this report is still “shocking” with allegations made by people from 41 countries, some 75% of them from Africa (the most common nationalities for removal being Uganda, Nigeria, Cameroon, Congo and Jamaica). Of the recorded assaults some 66% were against men and 34% against women, with 27 incidents involving families; 42 children were involved in these 27 incidents, with five children alleging that they were themselves assaulted. In addition to the assaults there were many allegations of racist abuse made against the escort, with terms such as “black bitch” and “black

monkey, go back to your own country” used repeatedly.

The report found that nearly half of the assaults (48%) occurred at the airport before the detainee was placed on the plane while another 12% took place in the transport van on the way to the airport; 24% of the alleged assaults were on the aeroplane before take off (with another 3% after take off). While these happened on scheduled airline flights, charter flights and military planes, they are shrouded in secrecy and it is still not even known how many airlines are contracted to carry out this work or how much they are paid. The report found that another 7% of the assaults occurred during transport back to the detention centre after the removal had failed. Six per cent of assaults took place within the detention centre itself.

Also distressing is the fact that abused asylum seekers are discouraged from seeking redress by making a complaint through fear of retribution as well as by the bureaucracy and complexity of the procedures. While the legal process is not deemed to be independent by many of its victims, there is also evidence that those who do lodge “complaints are subject to harassment and further abuse”. But if the victims feel intimidated from pursuing this process the authorities “appear reluctant to investigate reported assaults”. The report documents the ghosting of witnesses to other centres and in some cases their deportation; in other cases CCTV camera footage simply disappears or is conveniently obscured.

When an investigation is instituted, allegations of assault are invariably not upheld and in some cases there are serious questions over its adequacy:

*There is evidence that the police do not take allegations seriously. In some cases where the detainee reported the matter to the police, counter allegations of assault were made against the detainee. In a number of cases, detainees who have complained have been charged and prosecuted, although none we are aware of have been convicted. A number of people alleging assault have been able to bring civil action cases, some of which have been settled out of court. We are not aware, however, of any security guards or their employers being prosecuted for any assault related offence under the criminal law.*

The authors of the report conclude that:

*Our evidence suggests that immigration detainees do not have equal access to the law.*

The report makes a series of specific suggestions for remedial action to each of the agencies implicated in the report’s findings. These are summarised below:

The Home Office and Border Immigration Agency should:

- Take responsibility for their contractors use of force and be held legally liable for any assault carried out by them,
- provide guidance on when exceptional force can be used,
- provide up-to-date information about the contractors they use and publish the terms of their contracts,
- ensure compliance with complaints procedures and police investigations and ensure perpetrators are prosecuted,
- impose sanctions on company staff who commit assaults,
- publish monthly statistics on complaints,
- define alternatives to the use of force and review the appropriateness of control and restraint techniques,
- ensure that policy in relation to the treatment of pregnant women is actually enforced.

In relation to the contractors and escort companies:

- There should be a system of independent oversight,
- they should be accountable for lost or obscured CCTV footage,
- all escorts and DCOs should wear badges and company logos at all times; they should undergo improved training in restraint methods;

have training on the appropriate treatment of female detainees and to understand the impact of a history of torture or rape.

Airlines and aircraft crews should ensure:

- that relevant medical clearance procedures are applied to deportees, as they would to any other passenger,
- that the relevant incapacity forms are completed by refugees
- that documentation is produced in a case where an airline refuses to take a detained passenger or where there is an incident involving a detained passenger.

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**For all EU JHA proposals see:**

**Statewatch European Monitoring and Documentation Centre (SEMDOC):**

<http://www.statewatch.org/semDOC>

## Searching for Needles in an ever expanding haystack: Cross-border DNA data exchange in the wake of the Prüm Treaty by Eric Topfer

### Having "abandoned" proposals for an EU DNA database, the Member States are instead linking their national databases to achieve the same objective

Three years after the signing of the Prüm Treaty, the automated comparison of police cross-border networked DNA databases is in operation in six European countries. Core elements of Prüm were transferred into the legal framework by Council Decision 2008/615/JHA on 23 June 2008, and the other 21 EU countries will log in within the next few years. Although the establishment of the network was justified by the need to combat serious crime, interim reports reveal another story: most hits on the DNA database relate to property crime and often to anonymous "stains" (DNA from unidentified persons left at a crime scene). However, the number of stored DNA profiles is growing. More than 5.5 million people are registered in the EU member states' databases, 13 years after the United Kingdom established the first national database in Europe, which accounts for 70 per cent of total entries.

After having "successfully" completed a test phase, Germany and the Netherlands started the comparison of their national DNA databases in late June 2008. This was reported by the German Federal Minister of the Interior, Wolfgang Schäuble, and the Dutch Minister of Justice, Ernst Hirsch Ballin, at a meeting on 1 July in Berlin. Hence, the Netherlands began the operation of automated cross-national database comparison in the domain of DNA data as the sixth European country.

It was reported that for Germany, the comparison produced almost 600 hits in the Dutch database with more than 1,000 Dutch hits on the German side. These will be assessed and, if necessary, cleared. However, Schäuble was satisfied: "The benefits of data exchange are already obvious." He stressed the "enormous time-saving effects and the significant increase in efficiency" for cross-border cooperation.[1]

The legal basis of the automated database comparison is article 4 of the Prüm Treaty which was signed on 27 May 2005 by Austria, Belgium, France, Germany, Luxemburg, the Netherlands and Spain in the German town of the same name. Prüm, also known as Schengen III, does not only govern the automated searching and comparison of police DNA databases for the purpose of criminal investigation, but the automated searching of fingerprint data and national vehicle registration data for preventive purposes and, in the case of vehicle data, even to track administrative offences. Moreover, the Treaty sets out the framework for information exchange to prevent 'terrorist

crime' and cross-border police operations such as joint patrols and administrative assistance in case of major events or natural disasters.[2]

The Prüm Treaty has also been signed by Finland, Hungary, and Slovenia. Italy, Portugal, Slovakia, Sweden, Bulgaria, Romania and Greece are in the process of negotiating their accession. However, on the initiative of the German Presidency, the Council of the European Union decided to transfer core elements of the treaty into the legal framework of the EU on 12/13 June 2007. The recent Council Decision on "stepping up cross-border cooperation" of 23 June 2008 completed the transfer of Prüm eventually and, thus, established the legal basis for the creation of the largest pan-European network of police databases.[3] Moreover, it is planned to authorise the police to access the Visa Information System (VIS), which is supposed to start operation in 2009, and the European fingerprint database EURODAC, which is currently only allowed for asylum proceedings.[4] A joint European backbone for SIS II, VIS, EURODAC, Europol, Prüm etc. came into existence with the start of the "Secured Trans European Services for Telematics between Administrations" (STESTA) communications infrastructure in 2007.[5]

Furthermore, Germany and Austria in particular are striving for the further expansion of participating states: on 4 June 2008, the German government adopted an initiative by Schäuble and Justice Minister, Brigitte Zypries, to establish automated data searching procedures for DNA data (though, in contrast to Prüm, no automated comparisons) and fingerprints between Germany and the United States, designed after the Prüm model, which was already paraphrased in March, when their US colleagues Michael Chertoff and Michael Bernard Mukasey visited Berlin.[6] Austria is also examining plans for transatlantic data exchange and, following the police experts' wish list, is striving for the integration of associated EU states such as Switzerland, Norway or Iceland into the Prüm framework.[7]

Civil liberties advocates and data protection officers criticise the Prüm Treaty and its transfer into EU law not only because of its limited protection of fundamental rights but also for the undemocratic nature of the proceedings.[8] Although the Treaty stipulates that database access has to be log-filed and should follow defined purposes, the automated cross-border exchange

of police data is only limited by national legal protections, and these differ regarding data protection standards and the regulation of DNA analysis and DNA databases. Thus, Peter Hustinx, the European Data Protection Supervisor, called forthcoming EU-wide information sharing a ‘nightmare’ and criticised the fact that the Framework Decision on Data Protection for the Third Pillar of the EU has still not been implemented.[9]

It is also the case that Interpol has been operating a “DNA Gateway”, a platform for the international matching of DNA profiles, since 2002. But this Gateway, with around 77,000 entries from 47 countries, is an autonomous centralised database and the participating countries contribute only selected DNA profiles.[10] Moreover, as a rule Interpol member states request a matching procedure by fax and these are processed manually by the Interpol headquarters in Lyon. Although an opportunity for an automated matching procedure via the I-24/7-network for international police communication has existed in theory since 2005, so far very few member states have signed the relevant Charter. For example, Austria, which contributed significantly to the development of the “DNA Matching System”, did, while Germany is not a signatory.

Thus, Prüm was the first international treaty which arranged the automated cross-border matching of biometric data. In contrast to the networking of vehicle registers, the biometric data matching works on the basis of a hit/no-hit procedure at an index database without nominal data. In case of a hit, the requesting police department receives an index number, which can then be used under article 5 and 10 of the Prüm Treaty for administrative assistance requests for:

*further personal data and other information referring to the existing source of information.*

The DNA matching process was kicked-off between Germany and Austria immediately after both parties signed the Prüm Implementation Agreement ATIA on 5 December 2006; in June 2007, both parties started the automated exchange of fingerprint data and a few weeks later the networking of vehicle registers followed. In the domain of DNA data, Spain and Luxemburg, the latter established a national DNA database only in the aftermath of Prüm, were connected in May 2007. Slovenia followed – on a partial basis – in April 2008.[11] The automated searching of fingerprint databases is only in operation between Germany and Austria but tests are underway in Spain, Luxemburg and Belgium. Vehicle registers are searched on an automated basis across borders in Germany (so far limited to incoming requests), Spain, Luxemburg, the Netherlands and France.[12]

At least at the moment, it seems that the full realisation of Prüm is hindered by problems of interoperability and lack of standardisation. No surprise then, that the “Future Group” recently proposed a “convergence principle” as an “underlying thread to a coordinated management of European... security issues”,[13] and that these issues and a proposal for a three-phase “IT interoperability programme” (convergence being the final phase) were top priority at a joint seminar of the Article-36-Working-Group and the Strategic Working Group for Immigration, Border and Asylum Issues (SCIFA) held in January 2008 in Ljubljana and at the Conference of the “Chief Information Officers (CIOs) of Police Forces in Europe” held in Stockholm in June.[14]

The cross-border networking of police databases is usually justified with reference to the solving of spectacular criminal cases, for example, when the alleged perpetrators of a double murder in Tenerife were identified through a data exchange between Austria, Spain and Germany after a gang of burglars was caught in Austria.[15] But how representative are such examples? Until 24 September 2008, Germany achieved 4,170 hits in the DNA databases of Prüm signatory countries.[16] An

interim report on DNA data matching with Austria, Spain and Luxemburg, published on 1 June 2007, shows that around 85 per cent (1,257 hits) of the then 1,508 hits were related to property crime, such as theft or fraud.[17] Moreover, a more detailed account of the results of German-Austrian DNA data matching published in March 2007 reveals that nearly one half of the German hits are only related to anonymous crime scene stains from Austria.[18] Thus, European data exchange has not changed the balance of the national databases: the quantitative criminalistic value lies in the domain of property crime.

At the beginning of 2008, more than 5.5 million DNA profiles of known persons were stored in the national databases of the EU-27 countries, plus 627,000 stains from unknown persons.[19] The British National DNA Database accounts for around 70 per cent of the total entries and is the largest DNA database in the world. In continental Europe, the German database run by the Federal Criminal Police Office (*Bundeskriminalamt*) since April 1998 is the largest: almost 570,000 DNA profiles were stored by the end of June 2008.[20] However, in relation to its population, Estonia is second to the UK in the EU-27, with more than 20,000 entries; around 1.5 per cent of the total population are registered in the Estonian DNA databases. The number of registered Europeans is growing, not least because the legal limits for taking DNA samples from citizens are gradually weakening. For example, in Germany, where currently the police can only take a “genetic fingerprint” with the approval of a judge, crime detectives have been demanding for several years the right to make mandatory DNA sample-taking a standard measure of police recording.[21]

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Country	Persons	Stains[*]	Population 2008	Pop. on DNA Database
Austria	105639	29203	8331930	1,27%
Belgium	12515	13101	10666866	0,12%
Bulgaria	16201	966	7640238	0,21%
Cyprus	0	0	794580	0,00%
Czech Republic	12639	4740	10381130	0,12%
Denmark	30185	13071	5475791	0,55%
Estonia	20558	7159	1340935	1,53%
Finland	60959	9875	5300484	1,15%
France	506085	27170	63753140	0,79%
Germany	524782	123862	82221808	0,64%
Greece	0	0	11214992	0,00%
Hungary	55179	1102	10045000	0,55%
Ireland			4419859	0,00%
Italy	0	0	59618114	0,00%
Latvia	0	0	2270894	0,00%
Lithuania	23757	2764	3366357	0,71%
Luxemburg	218	226	483799	0,05%
Malta	0	0	410584	0,00%
Netherlands	47350	34155	16404282	0,29%
Poland	16118	174	38115641	0,04%
Portugal	0	2160	10617575	0,00%
Romania	2452	41	21528627	0,01%
Slovakia	6439	3425	5400998	0,12%
Slovenia	12120	4040	2025866	0,60%
Spain	21432	24800	45283259	0,05%
Sweden	41417	17002	9182927	0,45%
United Kingdom	4011954	308503	61185981	6,56%
EU 27	5527999	627539	497481657	1,11%

### National DNA Databases in EU-27 in 2008

Figures on population: EUROSTAT (01.01.08).

[\*] STAINS = DNA from unidentified persons left at a crime scene



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16. Information provided on request by the press office of the German Ministry of the Interior BMI, 2.10.08.

17. BMI: Ergebnisse auf Seiten Deutschlands im Rahmen des DNA-Datenaustausches mit Österreich, Spanien und Luxemburg nach dem Vertrag von Prüm. Online: [http://www.bmi.bund.de/nm\\_163598/Internet/Content/Themen/Polizei/Einzelseiten/Pruem.html](http://www.bmi.bund.de/nm_163598/Internet/Content/Themen/Polizei/Einzelseiten/Pruem.html) [3.7.08].

18. BMI: Vertrag von Prüm. Auswertung des DNA-Datenabgleichs zwischen Deutschland und Österreich. Stand 18. März 2007. Online: [http://www.eu2007.bmi.bund.de/nm\\_1059816/Internet/Content/Common/Anlagen/Themen/Europa\\_Internationales/DatenundFakten/Vertrag\\_Pruem\\_DNA\\_Echtabgleich\\_de.templateId=raw.property=publicationFile.pdf/Vertrag\\_Pruem\\_DNA\\_Echtabgleich\\_de.pdf](http://www.eu2007.bmi.bund.de/nm_1059816/Internet/Content/Common/Anlagen/Themen/Europa_Internationales/DatenundFakten/Vertrag_Pruem_DNA_Echtabgleich_de.templateId=raw.property=publicationFile.pdf/Vertrag_Pruem_DNA_Echtabgleich_de.pdf) [3.7.08].

19. According to figures in the presentation "Exchange of DNA-profiles by the Treaty of Prüm" by C. P. von der Beek of the Dutch Forensic Institute at the conference "DNA Data Exchange in Europe", June 5/6, 2008 in Maastricht/Heerlen. Online: <http://www.dna-conference.eu> [5.7.08].

20. BKA: Statistik DNA-Analysedatei. Online: <http://www.bka.de/profil/faq/dna02.html> [16.7.08].

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## Statewatch journal

The journal is published quarterly. Current subscribers will get the full six issues.

# Media Freedoms in the UK curtailed by police "culture of suspicion" and double standards by Max Rowlands

## Examines the damaging attack on the media of new police powers and practices and calls for urgent police training on guidelines and legislation to protect journalists

On 9 September 2008, at its annual conference in Brighton, the Trades Union Congress (TUC) unanimously carried a motion, proposed by the National Union of Journalists (NUJ), condemning the government's systematic erosion of civil liberties and the accompanying clampdown on media freedoms. NUJ General Secretary, Jeremy Dear, told the congress that journalists have been increasingly threatened with jail under anti-terrorism legislation for not revealing sources and photographers are routinely impeded and increasingly monitored by police surveillance units. This obstruction is caused, in part, by the police force's inadequate understanding of the law. But there has also been a far more systematic targeting of the media and those who attempt to publicise legitimate democratic protest.

### Photographers' legal rights and the lack of police training

By law, if an individual is on public property there are no restrictions on their taking still pictures or moving images. They are not obliged to stop filming unless they have committed a criminal offence, such as causing an obstruction of free passage (a charge often used spuriously by police during demonstrations to displace people). More recently *The Terrorism Act 2000* has been invoked when police claim a photographer's subject matter is sensitive to issues of national security (specifically under Section 44 which gives the police powers of stop and search). However, under the *Police and Criminal Evidence Act 1984 (PACE)* police have no right to confiscate cameras, film or memory cards from an individual unless they have first convinced a judge that the evidence is required in connection with a "serious arrestable offence" or that it would be admissible in court.

When the Metropolitan police agreed media guidelines with the NUJ, British Press Photographers' Association (BPPA) and the Chartered Institute of Journalists, in March 2006, media workers hoped it would lead to greater police understanding of their legal rights and an improvement in relations (the guidelines were adopted for all police forces by the Association of Chief Police Officers in April 2007). [1] However, the guidelines, which contain details of media members' rights and recommendations on how best for police to interact with them, have not been successfully implemented. Police officers have either not been given the advice or are routinely ignoring it. The NUJ's magazine *Journalist* reported that a London police

inspector knew nothing of the guidelines despite having recently taken a media training course. [2] And in April 2008, the chairman of the Metropolitan Police Federation, Peter Smyth, said that "the Terrorism Act 2000 doesn't make police powers clear" and admitted that officers receive no training as to how to correctly apply recent legislation when dealing with photographers. [3]

The net result is that police and police community support officers (PCSOs) – whose training is far less substantial – regularly demonstrate a severe lack of understanding of photographers' rights. This has led to unlawful police action in the form of confiscation of photographic equipment, denial of access to and displacement from a location, wrongful detention and even physical assault.

### The treatment of amateur and professional photographers

In an age when a large percentage of the population carry a camera with them at all times as part of a mobile phone (449 million picture messages were sent in 2007), the police force's insufficient training impacts upon an increasingly wide range of people in day-to-day life. It is a problem for everyone, not just members of the media, as a slew of incidents within the last twelve months have demonstrated.

For example, in July 2008 a man taking pictures of emergency service vehicles attending a fire at his local cricket club was ordered to stop doing so on grounds of "national security". [4] In the same month in Hampshire, a man was confronted by police when they saw him taking a picture of their car illegally parked at a bus stop. He was told that he was being questioned under the *Terrorism Act 2000* and forced to give them his full details which they said would be kept on file for a year. [5] In February 2008, a PCSO ordered an amateur photographer, who was taking landscape shots to submit to a Blackpool council photography competition, to delete any photos in which they appeared in the background. [6] And in December 2007, Suffolk police were forced to issue a full apology to a man they had made delete photos taken at a public Christmas lights event outside Ipswich town hall on the basis that he did not have a licence. [7] The video sharing website *YouTube* also features a number of videos in which individuals have been told to stop filming by police for spurious reasons. In one instance two police officers told a man standing in his own

garden that he was committing a criminal offence by filming them. When he asked them what law he was breaking they were unable to answer and eventually walked away. [8]

Professional photographers are more aware of their rights, but this has not prevented them from also being obstructed and harassed. While they too often fall foul of insufficient police training, there has also been a marked change of attitude towards the press in recent years. Jeff Moore, chairman of the BPPA, says that "since the [7 July 2005 London] bombings there's definitely been a big, big swing against press photographers". According to Peter Macdiarmid, a Getty photographer and BPPA member, "what's changed since 7 July 2005 is that it appears we're excluded from where the public are standing. The anti-terrorism act has been given as a reason for us to be removed. There's been various incidents of colleagues being poked in the chest with guns." [9]

Photographers and journalists are more frequently being subjected to rough treatment and even physical assault by police, as in the case of Marc Vallée who, in October 2006, was hospitalised after photographing the "sack parliament" demonstration in parliament square. He sued for assault and breach of his rights to freedom of expression and assembly and received a full apology and an out of court settlement in February 2008. [10] Chris Atkins, director of the film *Taking Liberties*, who witnessed the incident, describes it as "a sad reflection on the political policing that is now part of everyday Britain... Marc's case is a stark reminder that peaceful protest, and the reporting of it, is very much under threat in this country." [11]

Attempts at controlling the subject matter of photographs have also reached an unprecedented high. In May 2007, *Milton Keynes News* photographer Andy Handley was given a police caution (later rescinded after his case received media attention) and detained for eight hours after refusing to hand over a memory card containing pictures taken on a public road. [12] And in March 2008, Lawrence Looi, a staff photographer with a Birmingham news agency, was forced to delete images taken whilst covering demonstrations on public roads outside the International Conference Centre. [13] Both of these incidents clearly breach police media guidelines which state that officers "have no legal power or moral responsibility to prevent or restrict what they [members of the media] record."

Alarming, in April 2008, the *Editorial Photographers UK* website detailed a Metropolitan police opt-in pilot scheme in which photographers working in a busy area of central London would be asked to wear a fluorescent waistcoat fitted with a radio-frequency identification chip. The website's source, a senior police officer, said "cameras are potentially more dangerous than guns in the wrong hands" and continued the scheme will "first record, then assess what kind of photos applicants take and why, in much the same way that credit card companies spot unusual or suspicious transactions." [14]

A culture of suspicion is undoubtedly being cultivated. In March 2008, the Metropolitan police launched a counter-terrorism advertising campaign that encouraged the public to report anyone they thought to be taking suspicious photographs. The adverts ran in national newspapers with the slogan: "Thousands of people take photos every day. What if one of them seems odd?" [15] This is particularly ironic when you consider that in the wake of the London terrorist bombings the police made numerous appeals for the public to come forward with any photographs they had taken on the day that could be relevant to their investigations.

These clampdowns also reflect a profound double standard because the police are increasingly trialling schemes that involve filming the public. For example in Northampton, police on motorcycles fitted cameras to their helmets to catalogue anti-social behaviour. [16] More recently, Essex police pioneered a scheme in which officers "knocked on the doors of known

offenders, warned them that their behaviour would not be tolerated and then photographed them and their associates as they wandered around an estate for the next four days." [17] Britain is already the CCTV capital of the world with over four million cameras in operation filming individuals an estimated 300 times a day.

In recent months members of parliament have called for action to be taken. In March 2008 Austin Mitchell, a Labour MP, tabled an early day motion in the House of Commons which condemned growing police interference in photography on "specious grounds". By the end of June 2008 he had received the backing of over a third of MPs. And speaking in the House of Lords in July 2008, Lord Rosser called for "clearer guidelines to be consistently applied and a mutually acceptable balance between security needs and the legal right to take photographs in public places." [18]

### The growth of surveillance

In June 2008, Jeremy Dear was told, in a letter from Home Secretary Jacqui Smith, that, although there is no legal restriction on photography in public places, police constables had the right to impose restrictions for "operational reasons" and that "...decisions may be made locally [by police] to restrict or monitor photography in reasonable circumstances". While the letter does not specify what qualifies as a "reasonable circumstance", Dear is in no doubt that restrictions are being liberally implemented by police. He highlights clampdowns on coverage of political protests at recent public events such as the Olympic torch rally and the visit of George Bush. More recently, journalists documenting demonstrators outside the US embassy in London have been threatened with having their camera memory cards seized. [19]

Perhaps the most brazen example of police obstruction and intimidation of the media occurred in August at the *Climate Camp* protest site outside Kingsnorth power station in Kent. Journalists were subject to stop and search procedures both upon entering and leaving the camp (taking up to 40 minutes), and there were multiple reports of police manhandling camera crews and photographers, and attempting to control where and when they could film. [20]

Alarming, members of the media are also being targeted and filmed by the Metropolitan Police's Forward Intelligence Team (FIT). FIT units are comprised of police officers in full uniform who use cameras, video and audio recorders to visibly surveil designated targets. They make no attempt to disguise their operations and are therefore often intimidatory. FIT existed as part of the Public Order Intelligence Unit which was established in the 1990s to monitor football hooligans, but was later expanded to monitor political protestors. In the last few years FIT has begun to routinely target members of the media who cover political protests.

In a meeting with one of the team's members, the NUJ was assured that media workers were not intended targets and that any photos taken of them merely represented "collateral damage". But at the *Climate Camp* journalists were filmed in a café several miles away from the protest site, and the claim is also disproved by a recent NUJ short film, released after the TUC conference to highlight the organisation's concerns, which contains footage of a photographer being overtly monitored for over five minutes. [21]

While provocative, this practice is obviously perfectly legal. What is unclear, however, is whether the surveillance of journalists goes beyond FIT's visibly discernable methods of recording data. Further, what information is being collected, what is it being used for and who has access to it? Having twice asked these questions in writing of former Metropolitan police Commissioner Sir Ian Blair without reply, Jeremy Dear was hoping to receive clarification in a meeting with the Home

Office on 14 October 2008, but a cabinet reshuffle led to its postponement.

### Journalists and their sources

Speaking at the TUC conference, Jeremy Dear said:

*The terrorising of journalists is not just done by shadowy men in balaclavas, but also by governments and organisations who use the apparatus of the law or state authorities to suppress and distort the information they do not want the public to know. The use of terrorism and SOCPA [Serious Organised Crime and Police Act 2005] increasingly criminalise not just those who protest but those deemed to be giving the oxygen of publicity to such dissent. [22]*

In recent months this has been glaringly illustrated by unprecedented legal action brought against journalists. Sally Murrer, a freelance reporter, is currently awaiting trial on the relatively obscure charge of “aiding and abetting misconduct in a public office”. She was arrested in May 2007 on the basis of her association with police officer Mark Kearney, who she is alleged to have helped leak classified information. Having been under surveillance for months by security services – including having her car bugged – police carried out simultaneous raids on her home and place of work, the *Milton Keynes Citizen* newspaper. She has twice been held in police detention (once for 30 hours), strip-searched, and repeatedly told during interrogations that she would be jailed for life.

And yet it remains unclear exactly what Murrer has done to warrant the charges brought against her and the treatment she has received. All of the stories for which she used Kearney as a source, such as the arrest of a local footballer and the identity of a man killed in a fight, are relatively ordinary and localised and pose no threat to national security. Certainly Murrer’s methods of obtaining information are no different from those used by journalists throughout the country. But in February 2008, Kearney revealed that he had reluctantly taken part in a covert operation to bug a conversation between Labour MP Sadiq Khan and a constituent he was visiting in prison. Murrer says “this may be the missing piece of the jigsaw”, and speculates that “they tried to discredit the whistleblower and the journalist they thought he was going to blow the whistle to and destroy the story that way...they were trying to ruin him, destroying me in the process.” [23]

Murrer’s legal team are currently trying to have the case thrown out, arguing that bugging her conversations with Kearney breached her rights as a journalist under Article 10 of the *Human Rights Act*. But if she does go to trial and is found guilty, a precedent will have been set for the imprisonment of any journalist who receives information from a police or government source without official sanction. [24]

In another groundbreaking legal case in July 2008, investigative journalist Shiv Malik was ordered by the High Court to give Greater Manchester Police his source material on Hassan Butt, a self-confessed former militant extremist, on whom he had been writing a book. Malik had been seeking a judicial review against a production order, served to him in March under the *Terrorism Act 2000*, on the basis that its terms threatened both his safety and livelihood. Manchester police requested information on Butt after he was mentioned by a defendant in a forthcoming criminal trial, but the order required Malik to hand over all of his source material for the book; a move he argued would compromise multiple anonymous contributors. The judges agreed that the original order’s scope was too wide and narrowed its terms to information specifically related to Butt, but they dismissed Malik’s “frontal assault on the order itself” and ordered him to pay the police’s costs, adding that “proceedings should never have been brought.”

Speaking after the ruling, Malik acknowledged its severe implications for investigative journalism:

*This makes it almost impossible for journalists working in the field of*

*terrorism. It’s [The Terrorism Act] been a scythe hanging over our necks since it was enacted in 2000. Journalists in the field have been breaking the law and hoping they won’t get prosecuted. [25]*

Writers can now be compelled to cooperate with police or face jail, undermining a fundamental tenet of journalism: journalists should be able to protect the identity of a source. This will undoubtedly have a profound impact on Malik because he works in the highly sensitive area of Islamic terrorism where building trust and developing relationships with contributors is extremely difficult. He faces a sizeable task to maintain the contacts he has spent years developing because they can now legitimately reason that talking to him is little different from talking to the police. The obvious ramification of this is that information will be harder to come by; and this is to the detriment of both the police and the public.

Police have previously adopted far more dubious methods of procuring information from members of the media. Speaking at the NUJ Photographer’s Conference in March 2007, solicitor Mark Schwartz said that police were spuriously arresting journalists and photographers in order to bypass safeguards afforded under PACE and gain access to their work:

*At every demonstration, the police are figuratively scratching their heads as to how they can get hold of your material... What often happens is journalists are arrested, their material is taken from them, prosecution is not pursued, but then that material is used as part of the prosecution of non-journalists. [26]*

Freedom of the press, a central tenet of any democracy, is being undermined. The media’s inability to function freely and independently leads to the centralisation of information in the hands of the state. If access to sources and locations is mediated by police, courts and other institutions, there is a significant risk that journalists and photographers will become subservient to the very bodies civil society requires them to scrutinise. Better training of the police on media guidelines and the proper application of recent legislation is urgently required.

[1] Editorial Photographers UK website:

<http://www.epuk.org/Resources/819/acpo-police-media-guidelines>

[2] NUJ Journalist magazine, August 2008:

[http://thejournalist.org.uk/Aug08/feat\\_cops\\_main.html](http://thejournalist.org.uk/Aug08/feat_cops_main.html)

[3] Amateur Photographer website, 28 April 2008:

[http://www.amateurphotographer.co.uk/news/terror\\_act\\_police\\_attack\\_government\\_over\\_photography\\_in\\_public\\_news\\_254852.html](http://www.amateurphotographer.co.uk/news/terror_act_police_attack_government_over_photography_in_public_news_254852.html)

[4] Amateur Photographer website, 2 July 2008:

[http://www.amateurphotographer.co.uk/news/\\_Photographer\\_in\\_cricket\\_club\\_pictures\\_ban\\_Police\\_stop\\_amateur\\_on\\_grounds\\_of\\_national\\_security\\_news\\_262678.html](http://www.amateurphotographer.co.uk/news/_Photographer_in_cricket_club_pictures_ban_Police_stop_amateur_on_grounds_of_national_security_news_262678.html)

[5] Daily Mirror, 30 July 2008: <http://www.mirror.co.uk/news/top-stories/2008/07/30/police-use-terror-law-to-quiz-photographer-over-police-car-snap-115875-20676608/>

[6] Amateur Photographer website, 14 February 2008: [http://www.amateurphotographer.co.uk/news/uk\\_police\\_order\\_amateur\\_photographer\\_to\\_delete\\_pictures\\_at\\_tourist\\_hotspot\\_news\\_180714.html](http://www.amateurphotographer.co.uk/news/uk_police_order_amateur_photographer_to_delete_pictures_at_tourist_hotspot_news_180714.html)

[7] Amateur Photographer website, 26 November 2007:

[http://www.amateurphotographer.co.uk/news/Police\\_admit\\_they\\_may\\_have\\_been\\_overzealous\\_in\\_stopping\\_photographer\\_at\\_Christmas\\_lights\\_event\\_news\\_163500.html](http://www.amateurphotographer.co.uk/news/Police_admit_they_may_have_been_overzealous_in_stopping_photographer_at_Christmas_lights_event_news_163500.html)

[8] Youtube website: <http://uk.youtube.com/watch?v=VfQrDK9YHAs>

[9] Guardian website, 3 October 2005:

<http://www.guardian.co.uk/media/2005/oct/03/mondaymediasection.pressandpublishing2>

[10] Marc Vallée blog: <http://marcvallee.wordpress.com/2008/10/09/two-years-ago-today>

[11] Editorial Photographers UK website, 25 February 2008:

<http://www.epuk.org/News/811/vallee-accepts-met-settlement>

[12] NUJ Journalist magazine, August 2008:

[http://thejournalist.org.uk/Aug08/feat\\_cops\\_egs.html](http://thejournalist.org.uk/Aug08/feat_cops_egs.html)

[13] Editorial Photographers UK website, 2 March 2008:

<http://www.epuk.org/News/818/police-officer-forced-photographer-to>

delete-images

[14] Editorial Photographers UK website, 1 April 2008:  
<http://www.epuk.org/News/836/met-to-relax-london-photography-restrictions>

[15] Metropolitan Police website:  
[http://www.met.police.uk/campaigns/campaign\\_ct\\_2008.htm](http://www.met.police.uk/campaigns/campaign_ct_2008.htm)

[16] BBC website 26 September 2007:  
[http://www.bbc.co.uk/northamptonshire/content/articles/2007/09/26/police\\_helmet\\_cameras\\_feature.shtml](http://www.bbc.co.uk/northamptonshire/content/articles/2007/09/26/police_helmet_cameras_feature.shtml)

[17] Essex Police website, 3 March 2008:  
[http://www.essex.police.uk/news/n\\_cont.php?articleId=3577](http://www.essex.police.uk/news/n_cont.php?articleId=3577)

[18] Amateur Photographer website, 23 July 2008:  
[http://www.amateurphotographer.co.uk/news/\\_Photography\\_guidelines\\_set\\_to\\_include\\_amateurs\\_Government\\_to\\_liase\\_with\\_police\\_over\\_new\\_rules\\_news\\_264015.html](http://www.amateurphotographer.co.uk/news/_Photography_guidelines_set_to_include_amateurs_Government_to_liase_with_police_over_new_rules_news_264015.html)

[19] Interview with Jeremy Dear in *Free Press* magazine, July-August 2008

[20] Press Gazette website, 15 August 2008:  
<http://www.pressgazette.co.uk/story.asp?storycode=41915>

[21] NUJ website: <http://www.nuj.org.uk/innerPagenuj.html?docid=910>

[22] Full transcript can be found on the TUC website:

<http://www.tuc.org.uk/congress/tuc-15471-f0.cfm>

[23] Press Gazette website, 5 February 2008:  
<http://www.pressgazette.co.uk/story.asp?storyCode=40165&sectioncode=1>

[24] Press Gazette website, 13 October 2008:  
<http://www.pressgazette.co.uk/story.asp?sectioncode=1&storycode=42211>

[25] <http://www.mwaw.net/2008/07/02/malik>

[26] Editorial Photographers UK website, 3 March 2007:  
<http://www.epuk.org/News/489/photographers-conference-pace-seizure>

## Statewatch Observatories

<http://www.statewatch.org/observatories.htm>

EU Constitution/Lisbon Treaty  
Terrorists lists  
Access to EU documents  
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## Viewpoint: Improved security? Or a cancerous growth?

by Phil Hunt

I have just returned from my third music festival this year. And what struck me at two out of those three festivals – apart from the music – was their aspect as a microcosm of British society today.

Music festivals are, you might say, a traditionally egalitarian way of celebrating music in the British countryside. Most people are camping, and whatever your background, heavy rain brings the same problem for all - mud. Sometimes it's so bad that Land Rovers get bogged down and the tractors employed to pull them out struggle.

What mars that egalitarianism today – and which I don't remember from the festivals I attended in the 1980s – is the antics of a small group that call themselves festival security. These people – always male – have access to all areas of any festival, and seem to have the power to make life miserable for anyone they choose.

At one festival I was working as a volunteer for a stewarding organisation – a national charity – and there was no love lost between the predominantly university-educated volunteer stewards and the group one steward termed 'the Fourth Reich and their panzerwagons'.

As festival stewards, our job was to act as guides for the public and be as pleasant and helpful as possible at all times. That of the black-clad staff, by contrast, seemed to be to roam around in their Land Rovers, look menacing to anyone they chose not to like.

By some apparent coincidence, this group seemed to know even before I arrived that I was a journalist, and therefore likely to be antipathetic to their particular brand of anti-social behaviour. Obviously this made me a public danger – and meant I had to be shadowed at all times.

My reaction to such amateurish attempts at monitoring was to make large numbers of pointless journeys from one side of the festival site to another, then observe the consequences. The result was often highly amusing, especially when the best Le Carré traditions of spying behaviour were employed, such as doubling back on myself or taking routes that vehicles couldn't follow. A 'shaven-head' or similarly dubious individual could often be found attempting to have an earnest conversation with an alternative therapy practitioner straight out of the best 1970s hippie traditions.

Another volunteer steward equally trenchant in her opinions (she turned out to be a fellow journalist) had the fortune to be

allocated as companion for her night shift the worst kind of sexist, who proceeded to give his views on her looks and figure the night through. Fortunately, being highly articulate, she was well able to counter the opinions offered by this particular person. Just the same though, not the best way to spend the small hours of the night on duty.

A less amusing consequence was to be treated to various kinds of offensive and anti-social behaviour, from being surrounded in your camping place by several varieties of camping neighbours-from-hell, to the joys of being regularly doused with poisonous exhaust fumes from vehicles running on some kind of denatured fuel.

In fact you can talk to anyone who does festival stewarding and hear the same opinion of these so-called 'security' companies. Whilst they provide useful paid employment for people at the lower end of the seniority scale, they are basically the "heavy mob". So much so that you wonder if festivals would not actually be more secure without their presence.

During my few days festivaling I got to talk to people from all walks of life – a privilege for anyone who writes – and was often impressed by the way they brought their own professionalism to the benefit of the festival. Paramedics, fire marshals and fellow stewards from every part of the UK – often working for little more reward than the privilege of a few days camping in a wet and muddy field.

I was less impressed by "festival security". I came away with the strong impression that the security staff are about as much benefit to a music festival as the state security apparatus is to society itself.

We need to remind such people that their duty is to serve the public. Because it is the fees or taxes paid by the public that fund their existence. If the activities of security organisations serve only to terrorise those law-abiding citizens who dare to point out that they are exceeding their authority, then for me that signifies the growth of a cancer within the body politic.

I'm no doctor, but my understanding is that when you have a deep-rooted cancer, you have to root it out and destroy it whatever the consequences, if the organism is to stay healthy and survive.

*Phil Hunt is chair of the NUJ Brussels branch.*



## Civil Liberties

**“The forgotten Italian residents of Guantánamo”**, *Reprive*, June 2008, pp 27. This report looks at the plight of “at least six” Tunisians who have resided in Italy for several years and are currently in detention in Guantánamo, most of whom have been cleared for release but refuse to return to Tunisia as they would be subjected to torture, preferring to await permission to return to Italy despite suffering further abuse in the Cuban-based US prison camp’s isolation cells. *Reprive* notes that the Italian government’s involvement in the cases so far has been “on the side of the US military”, with connivance including the sending of interrogators to Guantánamo on at least three occasions (thus contravening the UN Convention against Torture), adding that “the Italian residents are virtually certain to have been rendered through Italian jurisdiction, with Italian government consent, en route to Guantánamo”. According to the report, the Italian government “appears to have been complicit in the transfer of at least 680 prisoners to Guantánamo” and, on the basis of flight logs from Spanish and Portuguese air traffic authorities, it is considered “highly likely” that at least 28 aeroplanes travelling to Guantánamo transited through Italian jurisdiction (airspace) between 2001 and 2006. The personal stories of the detainees before and during their detention are detailed, and *Reprive* calls on the Italian government to “accept its responsibility to help the US close Guantánamo by bringing the Italian residents home”. <http://www.reprive.org.uk/documents/08.06.17theforgottenitalianresidentsinguantanamo.pdf> and: <http://www.reprive.org.uk/documents/08.06.17residentiitaliani.pdf> (Italian version)

**Annual Report 2007**. *Biometrics Assurance Group*, June 2008, pp 19. The Biometrics Assurance Group (BAG) was set up at the recommendation of the Home Affairs Select Committee to monitor the increasingly widespread technologies around the biometric identification of people. In its annual report BAG suggests that the dependence of the government’s £4.5 billion ID-card scheme on fingerprint matches and facial-recognition biometrics exposes the system to error and that “exception handling” (mismatched or unclear prints) would occupy a large amount of the National Identity Scheme’s resources. See: [http://www.ips.gov.uk/passport/downloads/FINAL-BAG-annual-report-2007-v1\\_0.pdf](http://www.ips.gov.uk/passport/downloads/FINAL-BAG-annual-report-2007-v1_0.pdf)

**“Cuando lo público no es público. Por qué se necesita una ley de acceso a la información pública en España?”**, Eva Moraga, *Access Info Europe*, October 2008, pp 24. Report on access to information requests and cases in Spain in relation to the Spanish law and the practices of public administrations. It argues that the right of access to public information is “precariously” regulated in Spain, with “defects and gaps” that represent real obstacles for citizens to know “what public administrations do with their money” or how decisions that affect them are made. Drawing on a wide range of cases and 41 requests, the report notes how the legislation in force makes it easy for a public institution that is unwilling to provide a document or piece of information to find a legal basis not to do so. In 78% of cases, the requested information was not supplied (43% were answered by informing the applicant that they were denied the information, and 35% were met by administrative silence), whereas 22% were answered by supplying the information sought. Eleven appeals were filed, three of which resulted in the information being disclosed. The report concludes that the right of access to public information is not fully recognised in Spain, and it is largely unknown among the citizens and professional groups for which it is especially relevant such as politicians and journalists. It includes a set of recommendations calling for the approval of a specific access to information law that takes international standards and principles in this field into account. Available at: <http://www.access-info.org/>

**Information Law Update**, Dr David McArdle. *SCOLAG Legal Journal* no. 371 (September) 2008, pp 223-225. Review of the law relating to data protection, freedom of information and the media.

**Secrets of Iraq’s death chamber**, Robert Fisk. *The Independent*, 7.10.08, pp 22-23. One of the reasons used in to justify the British

government’s support for the illegal US invasion of Iraq, was the hardly new information that Saddam Hussein had been involved in acts of torture and the extra judicial murder of his opponents. In this article Fisk discusses the summary executions carried out in prisons run by Nouri al-Maliki’s US-backed “democratic” government. The hangings take place in Saddam’s former high-security intelligence headquarters, at Kazamiyah, and Fisk observes that “there have been hundreds since America introduced democracy”.

## Europe

**Case of Liberty and Others v. The United Kingdom**. *European Court of Human Rights (Application no. 58243/00)* (Council of Europe) 1.7.08, pp 30. This is a judgement by the European Court of Human Rights in a case brought by Liberty, British Irish Rights watch and the Irish Council for Civil Liberties. The applicants allege that “in the 1990s the Ministry of defence operated an Electronic Test Facility at Capenhurst, Cheshire, which was built to intercept 10,000 simultaneous telephone channels coming from Dublin to London and on to the continent.” The Court held that there had been a violation of Article 8 of the Convention and instructed the respondent state to pay Euro 7,500. <http://www.centrumforratvisa.se/images/File/FRA/LibertyvUK.pdf>

## Immigration and asylum

**Developing Diversity: how to improve the way we treat people seeking sanctuary**. *Independent Asylum Commission*, October 2008, pp 54. This final report condemns the government for its “inhumane and oppressive” treatment and failure to deal fairly with people seeking sanctuary. Its key findings are: 1. that those seeking asylum in the UK “deserve to be treated with dignity over which mere administrative convenience must never prevail” and it recommends that “urgent action is taken to remedy situations where the dignity of those who seek sanctuary is compromised”; 2. “People seeking sanctuary should be treated fairly and humanely, have access to essential support and public services, and should make a contribution to the UK if they are able” and 3. The responsibility for the treatment of asylum seekers “lies with the UK Border Agency, but also with politicians, the media and every individual citizen” – the UKBA “must engage swiftly” with the reports 92 recommendations. Asylum and Immigration Minister, Liam Byrne, said this evidence-based report was fiction, and that the system fair: See <http://www.independentasylumcommission.org.uk/>

**Recommended UK Shortage Occupation Lists**. *Migration Advisory Committee*, October 2008. The MAC was established to “provide transparent, independent and evidence-based advice to the Government on where shortages of skilled labour can be filled by immigration from outside the European Economic Area”. These reports are the first checklist of the kind of jobs that can be filled by migrant workers of any nationality in the UK and Scotland and it will considerably reduce the overall number of posts available to non-Europeans. See: <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/aboutus/workingwithus/mac/macreports/>

**Scope and meaning of article 8 in expulsion cases**, Navtej Singh Ahluwalia, Rebecca Chapman, leonie Hirst, Glen Hodgetts, Hugh Southney, Abi Smith, Amanada Watson and Chris Williams. *Legal Action* August 2008, pp. 49-51. This piece considers three House of Lords’ decisions that will have an impact in cases where the right to respect for family life in the UK under article 8 of the European Convention on Human Rights.

**Recent Developments in Immigration Law, parts 1 and 2**, Jawaid Luqmani and the Took’s Chambers’ Immigration Team. *Legal Action* June and July 2008, pp 12-15 and pp 27-34. In the first part Luqmani reports on the new UK Border Agency and recent changes in immigration rules. Part 2 considers significant developments in immigration case law.

**Immigration Law Update**, Alan Caskie. *SCOLAG Legal Journal* no. 367 (May) 2008, pp 127. Review of significant court cases from Scotland and England in the fields of asylum, immigration and nationality law.

**Migrant Workers and Vulnerable Employment: a review of existing data.** Hiranthi Jayaweera and Bridget Anderson. *Centre on Migration Policy and Society* (TUC Commission on Vulnerable Employment, London), September 2008, pp 49. This report, which focuses on the West and East Midlands and the east of England, finds that recent migrant workers are more than twice as likely as other workers to be earning less than the minimum wage and that female workers are most at risk. Disadvantage is found in pay, working hours, accommodation: <http://www.asylumscotland.org.uk/assets/downloads/research/Migrant%20workers%20and%20vulnerable%20employment.pdf>

**ESOL in the Post-compulsory Learning and Skills Sector: an evaluation.** *Ofsted*, 3.10.08, pp. This survey evaluates the quality of the provision of English for speakers of other languages (ESOL) and reports on the programmes offered. It concludes that courses for migrant workers, refugees and asylum seekers living in England are not good enough, with only one-fifth that are run by adult and community learning providers meeting the required standard. Ofsted's Chief Inspector, Christine Gilbert, said: "We must equip learners with the very best English skills to have them have the confidence to make a positive contribution to the community." See: <http://www.ofsted.gov.uk/Ofsted-home/Publications-and-research/Documents-by-type/Thematic-reports>

**Asylum Seekers and Refugees**, Hugh O'Donnell. *SCOLAG Legal Journal* no. 371 (September) 2008, p 218. Brief outline of the Scottish Cross-Party Group on Asylum Seekers and Refugees: [www.scottish.parliament.uk/msp/crossPartyGroups/](http://www.scottish.parliament.uk/msp/crossPartyGroups/)

## Law

**Security and Human Rights: counter-terrorism and the United Nations.** *Amnesty International* (Index: IOR 40/019/2008) September 2008, pp 54. This report, timed to coincide with the UN General Assembly's review of its global counter-terrorism strategy which was published on 8 September, says that governments have failed to uphold human rights standards, concluding that there is a huge gap between government rhetoric and human rights observations on the ground. It says that since 11 September 2001 a wide range of counter terrorism laws, policies and practices have eroded human rights practices and that some governments have argued that "the security of some can only be achieved by violating the rights of others." See: <http://www.amnesty.org/en/library/asset/IOA40/019/2008/en/7c2b7a4d-7a71-11dd-8e5e-43ea85d15a69/ior400192008en.pdf>

**Legal Aid Mind Games**, Jon Robbins. *Legal Action* June 2006, pp 7-9. This article discusses fixed fees, which came into force for mental health work in January 2008 and "will disproportionately hit lawyers acting for some of society's most vulnerable people."

**Genocide in Iraq**, David Model. *Counterpunch* 21.5.08. This article discusses the US doctrine of "pre-emptive war" in light of the invasion and occupation of Iraq, "a country already decimated by Desert Storm, sanctions and no-fly-zones". Model believes that the US government is guilty of genocide using the United Nations Convention for the Prevention and Punishment of the Crime of Genocide which sets out criteria to evaluate whether or not a war crime attains the magnitude of genocide. The full article is available on the excellent *Counterpunch* website: <http://www.counterpunch.org>

## Military

**Why does the US think it can win in Afghanistan**, Robert Fisk. *The Independent* 20.9.08, p 44. Here Fisk moves from the "unimaginable" progress in Iraq (he is quoting "the fantasist who still occupies the White House") to the forthcoming surge in Afghanistan, where ten French troops were killed on 18 August after several of them had surrendered to the Taliban.

**European Military Capabilities.** *International Institute for Strategic Studies* (London) July 2008. French plans to build up European military power to intervene in world crises depends on support from Britain, as France and Britain are the two biggest defence spenders in Europe.

**Re-energising Europe's Security and Defence Policy**, Nick Witney (former Chief Executive of the European Defence Agency). *European Council on Foreign Relations*, July 2008. European governments

should push for a multi-speed military Europe. The report urges the formation of overlapping 'pioneer groups' of the most willing and able on defence spending, investment in weapons and participating in operations. The countries most active should form a 'core group'. Countries that do not meet some basic criteria should catch up or leave the European Defence Agency. See:

[http://www.ecfr.eu/content/entry/european\\_security\\_and\\_defence\\_policy/](http://www.ecfr.eu/content/entry/european_security_and_defence_policy/)

**NATO's Current Woes**, Mark Burgess (Director World Security Institute, Brussels). *Center for Defense Information*, September 8.9.08. Rumours of NATO's impending death may be overstated, but failure in Afghanistan will be costly to an organisation that has sought to reinvent itself since the end of the Cold War. NATO's position in Afghanistan stems partly from inherent difficulties of counter-insurgency operations, but it is also hindered by lack of a common strategy, and sensitivity to domestic policies when it comes to using the troops: [http://www.cdi.org/program/document.cfm?documentid=4369&programID=29&from\\_page=../friendlyversion/printversion.cfm](http://www.cdi.org/program/document.cfm?documentid=4369&programID=29&from_page=../friendlyversion/printversion.cfm)

**USAFE struggle to patrol NATO airspace**, Caitlin Harrington. *Jane's Defence Weekly*, 24.9.08 p 12. The number of US combat aircraft available to patrol NATO airspace and fulfil other missions in Europe has declined by 75 per cent since the end of the Cold War from 717 in 1990 to 177 today. According to General Roger Brady, commander of USAFE (US Air Forces in Europe) the "eastern fringes" of NATO airspace such as Poland are becoming nervous about Russia's increasingly assertive airpower.

**Israel asked US for green light to bomb nuclear sites in Iran**, Jonathan Steele. *The Guardian* 25.9.08, pp 1-2. This piece, based on "senior European diplomatic sources", discusses Israel's plans to bomb Iran's nuclear sites. According to Steele's sources, Bush refused the plans for a Spring assault because of concerns over Iran's likely retaliation ("a wave of attacks on US military and other personnel in Iraq and Afghanistan as well as on shipping in the Persian Gulf") and concerns that Israel "would not succeed in disabling Iran's nuclear facilities in a single assault" and "could not mount a series of attacks over several days without risking full-scale war." The article concludes by referring to the US announcement, two weeks ago, that it will sell Israel 1,000 bunker busting bombs.

**Blood at the Cross roads: making the case for a global arms trade treaty.** *Amnesty International* (Index ACT 30/011/2008), September 2008, pp. 134. The report argues that governments must act to create effective and robust regulation to control the arms trade, arguing that an Arms Trade Treaty "could work to save lives, preserve livelihoods and enhance respect for human rights." It examines the situation in Iraq, Columbia, Côte d'Ivoire, Guatemala, Guinea, Myanmar, Somalia, Sudan and Chad: [http://www.amnesty.org.uk/uploads/documents/doc\\_18674.pdf](http://www.amnesty.org.uk/uploads/documents/doc_18674.pdf)

**Exposed: the arms lobbyist in parliament**, James Macintyre. *The Independent* 26.6.98, p 1-2. Article on Robin Ashby, "a senior arms lobbyist [who] is gaining access to ministers, MPs and peers inside Parliament using a research assistant pass allotted to a member of the House of Lords who benefits financially from one of his companies." Ashby is chairman of the defence consultancy firm Bergmann's which "lobbies on behalf of more than a dozen large defence and aerospace companies including BAE Systems, Northern Defence Industries, UK Defence Forum, Boeing and Rolls-Royce..."

## Policing

**Discrimination claims against the police**, Heather Williams QC. *Legal Action* August 2008, pp. 45-48. This is the first article of a two-part series that examines the "various definitions of discriminatory conduct by the police and gives practical examples of where such conduct could arise".

**A watchdog without bite**, Jon Robins. *Legal Action* April 2008, pp. 7-8. This piece discusses the Independent Police Complaints Commission (IPCC) and the Police Action Lawyers Group's withdrawal of support from it along with the resignation of two members from the commission's advisory board. The author observes that "The perception of the IPCC as a toothless watchdog is apparently contributing to a loss of confidence in the community."

**France: death in police custody**, Virginia MacFadyen. *European Race Bulletin* no 64 (Summer) 2008, pp 16-18. On the death in police custody of 22-year old Abdelhakim Ajimi in the city of Grasse (Alpes-Maritimes) and raises a number of unanswered questions about it.

## **Prisons – new material**

**Community Sentences: a soft option or vital part of the justice system?** Douglas Thompson. *SCOLAG Legal Journal* no. 367 (May) 2008, pp 117-119. Thompson notes that “changes in the administration of bail and increases in the sentencing powers of the summary courts, which came into force at the end of last year, push[ed] the Scottish prison population past the figure of 7,600 for the first time.” Thompson concludes that “There is little doubt that our rate of imprisonment, particularly of young offenders, which remains one of the highest in Europe, has done nothing to reduce offending” and points out that “The vast majority of summary offenders are not dangerous people from whom “the public” needs to be “protected”.

**Recent developments in prison law – Part 1**, Hamish Arnott, Nancy Collins and Simon Creighton. *Legal Action* July 2008, pp 20-23 and pp 13-18. This latest update on the law relating to prisoners and their rights reviews changes to legislation and the Prison Rules and case-law relating to life sentenced prisoners. LAG email: [legalaction@lag.org.uk](mailto:legalaction@lag.org.uk)

**Legal professional privilege and covert surveillance**, James Welch. *Legal Action* April 2008, pp. 9-10. Disclosures over the past few years have revealed the extent of the bugging of prisoners engaged in confidential conversations with their solicitors. Here the legal director of Liberty discusses “the adequacy of safeguards currently in place to protect the confidentiality of solicitor/client consultations in police stations and prisons.”

## **Racism and Fascism**

**Integration, Islamophobia and civil rights in Europe**, Liz Fekete. Institute of Race Relations (May) 2008, pp 105. This report finds that “the challenge to multiculturalism in Europe comes not from Muslim communities’ unwillingness to integrate but from Islamophobia.” It concludes that “it is impossible to advance integration of Muslims in Europe when the whole debate about integration any many of EU member states’ new policy initiatives are shot through with Islamophobia. Young Muslims in particular are influenced locally by economies that exclude them, nationally by debates which demonise them and internationally by foreign policies which alienate them.” Available from IRR, 2-6 Leeke Street, London WC1X 9HS, email: [info@irr.org.uk](mailto:info@irr.org.uk)

**From fight to farce: the BNP leadership challenge peters out**, Nick Lowles. *Searchlight* no. 397 (July) 2008, pp 12-13. Update on the unsuccessful challenge to Nick Griffin’s leadership of the BNP by a significant section of the organisation’s membership.

**L’incubatrice del razzismo**, Stefano Rodotà. *Repubblica*, 23.9.08. Using statements by *Lega Nord* politicians during recent political meetings, including former mayor of Trieste, Giancarlo Gentilini, saying “Never mind about mosques, immigrants can go to pray and piss in the desert” on 15 September 2008 in Venice, Rodotà notes how these indicate a dangerous degeneration, seldom picked up on by the media, that may help to explain what is happening in the country. He offers five keys to interpret the situation: 1) the creation of an image of an ethological territory that, if penetrated by “others” (immigrants, Roma people, homosexuals), gives rise to reactions telling them to go elsewhere, that may even go so far as to be violent; 2) a mithridatic country, whereby small doses of this kind of discourse, and their dismissal as folklore or incandescence by the likes of Berlusconi and a weak left, have resulted in resignation or inurement, and to language becoming more vulgar, beyond the limits set by principles of equality or respect for people’s dignity; 3) the concern expressed by the European Union towards recent Italian events cannot be relieved by merely modifying certain norms that are envisaged, and Italian diplomats should help the government to understand the EU’s reactions, rather than voicing complaints about them; 4) the distinction between “good” and “bad” immigrants, constantly mooted by politicians when approving legislation, does not transpire on the ground, where immigrants’ encounters with the State (for example, when renewing

work or residence permits) are often marked by intimidatory conduct, the use of “tu” (informal) as if dealing with “inferior beings”, comments about women’s appearance, and annoyance when any requests for explanations are made; 5) as for racism, Rodotà acknowledges that the word is “frightening”, but that when facing dramatic events, it does not suffice to say that Rome, or Milan, are not racist, as if they were immune from such a phenomenon, concluding: “racists are among us, not just in Italy, but we must ask ourselves whether we are doing enough, not just to fight them, but to stop them from feeling like they are the representatives of the times”.

**The Italian general election and its aftermath**, Liz Fekete. *European Race Bulletin* no 64 (Summer) 2008, pp 1-15. This feature article summarises the situation in Italy with the election of fascists, xenophobes, Islamaphobes and nationalists under the flag of convenience of Silvio Berlusconi’s *Popolo della Liberta*. Available from IRR, 2-6 Leeke Street, London WC1X 9HS; email: [info@irr.org.uk](mailto:info@irr.org.uk)

**Italian fascism is once again on the rise**, Peter Popam. *The Independent* 6.5.08, p 31. Starting from the murder of Nicola Tomamasoli, who was beaten to death by a neo-fascist mob, Popham describes how Italy “has embarked on an alarming new experiment” following April’s elections leaving the far right “closer to the heart of power than at any time since the fall of Mussolini.” Among the key players in this Berlusconi’s government is Gianfranco Fini, and his *Aleanza Nazionale* colleague, Gianni Alemanno; the government is also dependent on the nationalist *Lega Nord* for majorities in both houses of parliament. The Verona public prosecutor, Guido Papalia, who is investigating the killing of Nicola Tomamasoli, has expressed his concern: “There is a way of thinking that is very widespread these days, which rejects what is different, those who don’t dress like us, don’t eat like us, don’t speak with our accent, in defence of a system that they simply maintain is better than that of others and that therefore must be defended with violence.”

**An ongoing trial of terror**, Gerry Gable. *Searchlight* no. 398 (August) 2008, pp 11-13. Examination of far-right terrorism in the UK that looks at some of the many terrorist acts carried out or planned by fascists in the UK since the Second World War.

## **Security & intelligence**

**Six Years in Guantanamo**, Robert Fisk. *The Independent* 25.9.06, pp 30-31. This interview with Robert Fisk highlights the Guantanamo Bay political prisoner and Al-Jazeera cameraman, Sami al-Haj, who “was beaten, abused and humiliated in the name of the war on terror”. The 38-year old journalist, who was never charged with a crime nor put on trial, suffered repeated beatings and force-feeding because he refused to spy for the USA. Interrogated by British, US and Canadian intelligence officers, he tells Fisk that the Americans apologised to him when he was released after six years of political imprisonment. He hopes that one day he will recover enough from his ordeal to be able to walk without a walking stick again.

**The impact of Ergenekon Investigation on Turkish Counterterrorism Operations**, Gareth Jenkins. *Terrorism Monitor*, 3.10.08 pp. 6-9. According to this long-time journalist resident in Istanbul, the judicial investigation into the Turkish ultra-nationalist conspiracy Ergenekon has become increasingly characterized by a mixture of incompetence, paranoia, politicization and disinformation. Some members of Ergenekon were prepared to try to destabilize the AKP government through the use of violence. However it was poorly organized and badly equipped. By the time it was dismantled it had only managed to conduct a handful of relatively small operations. <http://www.jamestown.org/terrorism/news/article.php?articleid=2374453>

**Iran, the IAEA, and the laptop**, Muhammed Sahimi. *Antiwar.com*, 7.10.08. Each time the IAEA declares its satisfaction with Iran’s explanations for any [nuclear] issue, new allegations and questions are raised. One crucial piece of information about a laptop that has been purportedly stolen in Iran and made available to Western intelligence agencies in Turkey, that has not been discussed or mentioned is the documents’ digital chain of custody.

<http://www.antiwar.com/orig/sahimi.php?articleid=13559>

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## The War on Freedom and Democracy -

Essays on civil liberties in Europe, edited by Tony Bunyan

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## Statewatch website

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